

Rebecca Terry vs County of Milwaukee, et al.

17-CV-1112

Transcript of the Testimony of:

ELIZABETH FREUCK

August 21, 2018



1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WISCONSIN

3 REBECCA TERRY,

4 Plaintiff,

5 -vs-

Case No. 17-CV-1112

6 COUNTY OF MILWAUKEE, et al.

7 Defendants.

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11 Deposition of ELIZABETH FREUCK

12 Tuesday, August 21st, 2018

13 10:34 a.m.

14 at

15 LEIB, KNOTT & GAYNOR, LLC
16 219 North Milwaukee Street, Suite 710
Milwaukee, Wisconsin

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19 Reported by: Wendy L. Hanneman, RPR
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<p>Page 2</p> <p>1 Deposition of ELIZABETH FREUCK, a witness 2 in the above-entitled action, taken at the instance of 3 the Plaintiff, pursuant to the Federal Rules of Civil 4 Procedure, pursuant to notice, before WENDY L. HANNEMAN, 5 Registered Professional Reporter and Notary Public in 6 and for the State of Wisconsin, at LEIB, KNOTT & GAYNOR, 7 LLC, 219 North Milwaukee Street, Suite 710, Milwaukee, 8 Wisconsin, on the 21st day of August, 2018, commencing 9 at 10:34 a.m. and concluding at 12:28 p.m.</p> <p>10</p> <p>11 A P P E A R A N C E S:</p> <p>12 LOEVY & LOEVY, by 13 Mr. Scott R. Rauscher 14 311 North Aberdeen Street, 3rd Floor 15 Chicago, Illinois 60607 16 Appeared on behalf of the Plaintiff.</p> <p>17 LEIB, KNOTT GAYNOR LLC, by 18 Mr. Douglas S. Knott 19 219 North Milwaukee Street, Suite 710 20 Milwaukee, Wisconsin 53202 21 Appeared on behalf of Defendants, County of 22 Milwaukee, David A. Clarke, Jr., Officer 23 Brian Wenzel, Carolyn Exum, Morgan Bevenue, 24 and Margaret Hoover.</p> <p>25 HINSHAW & CULBERTSON LLP, by 26 Ms. Mollie T. Kugler 27 100 East Wisconsin Avenue, Suite 2600 28 Milwaukee, Wisconsin 53202 29 Appeared on behalf of Defendant, Armor 30 Correctional Health Services.</p>	<p>Page 4</p> <p>1 TRANSCRIPT OF PROCEEDINGS 2 ELIZABETH FREUCK, called as a witness 3 herein, having been first duly sworn on oath, was 4 examined and testified as follows: 5 E X A M I N A T I O N 6 BY MR. RAUSCHER: 7 Q Can you say and spell your name, please? 8 A My name is Elizabeth Freuck, E-L-I-Z-A-B-E-T-H, 9 last name F-R-E-U-C-K. 10 Q Who do you work for? 11 A Milwaukee County Sheriff's Office. 12 Q How long have you worked for the Milwaukee County 13 Sheriff's Office? 14 A Um, 22 1/2 years. And with the County of Milwaukee 15 30 years. 16 MR. KNOTT: What was that? I didn't hear 17 that. 18 THE WITNESS: I worked for Milwaukee 19 County for 30 years, in addition to the Sheriff's 20 Department. 21 BY MR. RAUSCHER: 22 Q So Sheriff's Office for the last 22, and then the 23 County for eight years before that? 24 A Correct. 25 Q What are your current job responsibilities?</p>
<p>Page 3</p> <p>1 I N D E X 2 EXAMINATION PAGE 3 MR. RAUSCHER 4, 82 4 MR. KNOTT 64 5 6 E X H I B I T S 7 NO. DESCRIPTION PAGE IDENTIFIED 8 Exh. 1 Hospital watch log 36 9 Exh. 2 Investigative summary 59 10 Exh. 3 Supplemental report 11 dated 5/7/16 59 12 (Exhibits were retained by the court reporter. 13 Originals attached to original transcript and 14 copies to copy transcripts.) 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 5</p> <p>1 A My job title is deputy sheriff. I'm currently 2 assigned to the Courts Division. So, but my job 3 responsibilities engulf the vast majority of 4 things, basically, to, you know, protect the 5 citizens of Milwaukee County. 6 Q Are you in a supervisory role now? 7 A No. 8 Q What are your main day-to-day responsibilities? 9 A Um, well, I work -- I'm primarily assigned in 10 Branch 16 of the courthouse, which is family court. 11 So I'm in the courtroom while it's in session. And 12 it's family court, so there's not a lot of, um, in 13 custody. But I monitor the safety and security of 14 both the citizens and the court staff within that 15 area of the building. 16 Q Okay. How long have you been assigned to the 17 Courts Division? 18 A I want to say about five years. 19 Q Can you actually briefly walk through at a sort of 20 high level your various jobs over the years in the 21 Milwaukee County Sheriff's Office? 22 A When I graduated and left the academy, I was 23 assigned to the jail, where I was a total of 13 24 years. After that, I was assigned to the Airport 25 Division. So I worked out of the airport, um,</p>

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<p>1 which entailed both patrolling and securing the</p> <p>2 area of the airport, as well as the -- the</p> <p>3 surrounding roads around the airport.</p> <p>4 Q And can you just put years around those, to the</p> <p>5 best of your ability?</p> <p>6 A The years?</p> <p>7 Q Yeah.</p> <p>8 A Um, sure, let me think for just a moment, please.</p> <p>9 Q Sure.</p> <p>10 A Let's see. About '09 to late 2013, I want to say.</p> <p>11 Q That was the Airport Division?</p> <p>12 A Yes.</p> <p>13 Q And then it was about '96 to 2009 was the jail?</p> <p>14 A Yes.</p> <p>15 Q For your first stint there?</p> <p>16 A Yes.</p> <p>17 Q And what did you go do after the Airport Division</p> <p>18 around 2013?</p> <p>19 A That's when I was assigned to courts.</p> <p>20 Q And you've been in court since?</p> <p>21 A Yes.</p> <p>22 Q Did you ever work for Armor?</p> <p>23 A No.</p> <p>24 Q Do you know what Armor is?</p> <p>25 A Yes.</p>	<p>1 become a certified law enforcement officer. And</p> <p>2 then we had an additional three weeks after that of</p> <p>3 jailer training.</p> <p>4 Q Were you working for the Sheriff's Department when</p> <p>5 you went through the academy?</p> <p>6 A I was employed by the Sheriff's Department, yes.</p> <p>7 Q What did you do for the County for the first eight</p> <p>8 years?</p> <p>9 A Um, I worked at the Milwaukee Mental Health</p> <p>10 Complex. Um, my title was as a psychiatric care</p> <p>11 worker, and I worked with the children's units,</p> <p>12 known as the Childhood Adolescent Treatment Center.</p> <p>13 Q Childhood Adolescent Treatment Center?</p> <p>14 A Mm-hmm. I was a certified CNA.</p> <p>15 Q You were a certified -- what's a certified CNA?</p> <p>16 A Certified nursing assistant.</p> <p>17 Q Did you have to go to school to get --</p> <p>18 A No, it was training we got through the County.</p> <p>19 Q Did you go to college?</p> <p>20 A I did.</p> <p>21 Q Where did you go to college?</p> <p>22 A UWM, Milwaukee.</p> <p>23 Q University of Wisconsin-Milwaukee?</p> <p>24 A I'm sorry?</p> <p>25 Q Is it University of Wisconsin-Milwaukee?</p>
Page 7	Page 9
<p>1 Q What is Armor?</p> <p>2 A It's a med -- it's who does the medical at the</p> <p>3 Milwaukee County Jail.</p> <p>4 Q Do you have any medical training?</p> <p>5 A I don't, other than first responder with the</p> <p>6 Sheriff's Department.</p> <p>7 Q When did you get first responder training?</p> <p>8 A First in the academy, and then every two years we</p> <p>9 generally have some sort of first responder</p> <p>10 training and CPR.</p> <p>11 Q You've referred to the academy a couple times. Can</p> <p>12 you just explain what the academy is?</p> <p>13 A Well, at the time I went through it, it was over at</p> <p>14 Kosciuszko Park. Now we have our own training</p> <p>15 academy. Basically, it is where I was certified to</p> <p>16 become a law enforcement officer. So classroom, as</p> <p>17 well as hands-on scenario type things to become</p> <p>18 certified. Firearms training, EVOC, which is</p> <p>19 emergency vehicle training, among various other</p> <p>20 things.</p> <p>21 Q Did you say it was about a month -- oh, among other</p> <p>22 things?</p> <p>23 A No, among other things. I'm sorry.</p> <p>24 Q How long was academy?</p> <p>25 A When I went through it, it was ten weeks long to</p>	<p>1 A Yes. I'm sorry.</p> <p>2 Q That's okay. Did you graduate?</p> <p>3 A No.</p> <p>4 Q How long did you go for?</p> <p>5 A A long time. Um, I graduated high school in '83,</p> <p>6 so the fall of '83, um, probably a good six to</p> <p>7 seven years.</p> <p>8 Q To '89 or '90 or so?</p> <p>9 A Ah, probably more like '89, yeah.</p> <p>10 Q Did you come close to graduating?</p> <p>11 A Um, no.</p> <p>12 Q Were you going full time?</p> <p>13 A For most of the time, yes. Not always. I was</p> <p>14 indecisive with selecting my major, which is why I</p> <p>15 wasn't close to graduating.</p> <p>16 Q Okay. Did you take any nursing or health care</p> <p>17 classes during that time?</p> <p>18 A No.</p> <p>19 Q Were you pre-med or anything like that?</p> <p>20 A No.</p> <p>21 Q When you were assigned to the courts -- is it</p> <p>22 Courts Division?</p> <p>23 A Yes.</p> <p>24 Q When you were assigned to the Courts Division</p> <p>25 around 2013, were you also at times assigned out to</p>

<p style="text-align: right;">Page 10</p> <p>1 do other things?</p> <p>2 A Um, well, we're always can be -- we're always</p> <p>3 assigned to -- the Courts Division generally when I</p> <p>4 first came out there, we manned the hospital</p> <p>5 watches.</p> <p>6 Other than that, we can get mandatory in</p> <p>7 the summertime like for events at the lakefront or</p> <p>8 runs throughout Milwaukee, and events at different</p> <p>9 parks and things like that.</p> <p>10 Q You say when you were first out at the Courts</p> <p>11 Division, you manned the hospital watches?</p> <p>12 A Well, always, I mean, the courts was assigned --</p> <p>13 assigned people to do the hospital watches.</p> <p>14 Q It was part of your -- part of your normal</p> <p>15 assignment in the Courts Division was hospital</p> <p>16 watches, or no?</p> <p>17 A It wasn't part of the normal assignment. Um, but,</p> <p>18 um, like when I was assigned in the jail, we had</p> <p>19 deputies in the jail, and then the deputies in the</p> <p>20 jail were assigned to do it.</p> <p>21 After we no longer had deputies in the</p> <p>22 jail, it became the responsibility of the Courts</p> <p>23 Division to assign people, except on short notice</p> <p>24 some patrol, because they were the only division</p> <p>25 open.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Okay. So let's make sure we get the terminology</p> <p>2 straight. What's a hospital run?</p> <p>3 A When the medical staff determines, or does not</p> <p>4 accept someone into the jail and they have to be</p> <p>5 taken out to the hospital for medical clearance.</p> <p>6 Q When you say "the medical staff", do you mean the</p> <p>7 medical staff at the jail?</p> <p>8 A Correct.</p> <p>9 Q Does that include if somebody's in the jail already</p> <p>10 and then needs to go to the hospital?</p> <p>11 A Yes.</p> <p>12 Q Is that a run, also?</p> <p>13 A Yes.</p> <p>14 Q So it could be someone coming in and the medical</p> <p>15 staff saying you're not healthy enough to be here,</p> <p>16 or it could be somebody who's already there who</p> <p>17 needs to go out?</p> <p>18 A Correct.</p> <p>19 Q And is the run --</p> <p>20 A And --</p> <p>21 Q Go ahead.</p> <p>22 A I'm sorry, if somebody's just coming into the jail,</p> <p>23 only if it's our department will our staff take</p> <p>24 them out. If it's, say, West Allis's, and the</p> <p>25 medical staff doesn't accept them, then it's</p>
<p style="text-align: right;">Page 11</p> <p>1 Q So maybe "normal" wasn't a good choice of words by</p> <p>2 me. It was a typical part of the job; is that</p> <p>3 right?</p> <p>4 A Um, that every once in a while it was known you</p> <p>5 could be called out to work a hospital watch, yes.</p> <p>6 Q And at some point did that stop becoming part of</p> <p>7 the job in the Courts Division?</p> <p>8 A Not really, no.</p> <p>9 Q Is it still part of the job today?</p> <p>10 A Yes.</p> <p>11 Q Do you still go on hospital watches today?</p> <p>12 A On occasion.</p> <p>13 Q Are there -- is there anyone else other than</p> <p>14 deputies in the Courts Division who handle hospital</p> <p>15 watches?</p> <p>16 A No, there are -- when -- when people go out to the</p> <p>17 hospital from the jail -- I'm not sure I understand</p> <p>18 your question, I guess. The correctional officers</p> <p>19 usually will take them out to the hospital.</p> <p>20 Q And then you'll take over --</p> <p>21 A And then when it becomes a watch as opposed to just</p> <p>22 a run, considering -- thinking that they'll be</p> <p>23 going to the ER and coming back, if it becomes a</p> <p>24 watch, if they get admitted, then it'll -- the</p> <p>25 deputies will take over.</p>	<p style="text-align: right;">Page 13</p> <p>1 medical staff's -- or it's West Allis's</p> <p>2 responsibility to take them and get them cleared.</p> <p>3 Q When you say "our department", you mean the</p> <p>4 Sheriff's Department?</p> <p>5 A Yes. I'm sorry.</p> <p>6 Q So you mean only if the sheriff department arrested</p> <p>7 that person?</p> <p>8 A If they're coming in.</p> <p>9 Q Right.</p> <p>10 A So we -- or we had to have accepted -- the medical</p> <p>11 staff had to already approve them, or accepted them</p> <p>12 to come into the jail. Then it would be our</p> <p>13 responsibility to do the run. But if they just</p> <p>14 come in and they haven't been accepted by the</p> <p>15 medical staff into the jail yet, then it would be</p> <p>16 whatever arresting agency's responsibility to take</p> <p>17 them to get them medically cleared.</p> <p>18 Q And if the person -- so let's take that situation</p> <p>19 where someone was arrested by a different agency,</p> <p>20 they came to the jail, but they were not accepted.</p> <p>21 A Mm-hmm.</p> <p>22 Q They're sent out to the hospital. If they're</p> <p>23 admitted, is it still that agency's responsibility?</p> <p>24 A Yes.</p> <p>25 Q So you don't -- you a deputy for the sheriff</p>

<p style="text-align: right;">Page 14</p> <p>1 wouldn't take over the hospital watch?</p> <p>2 A No.</p> <p>3 Q Okay. And at some point can a hospital run become</p> <p>4 a hospital watch?</p> <p>5 A Yes.</p> <p>6 Q What is a hospital watch?</p> <p>7 A That's when a person would get admitted into the</p> <p>8 hospital while -- if they're under arrest or in</p> <p>9 custody. And other departments have them, too. I</p> <p>10 don't know if they call them the same.</p> <p>11 Q But for Sheriff's Department, a hospital watch is</p> <p>12 when --</p> <p>13 A Correct.</p> <p>14 Q -- someone is admitted to the hospital?</p> <p>15 A Yes.</p> <p>16 Q How many hospital watches have you participated in</p> <p>17 as a sheriff's deputy?</p> <p>18 A Um, I can only give you a guess, but I would say,</p> <p>19 over my years, probably in the low one hundreds.</p> <p>20 Q What are your -- well, have the -- have your</p> <p>21 primary responsibilities in conducting hospital</p> <p>22 watches changed over the years?</p> <p>23 A Um, there have been some policy changes over the</p> <p>24 years, but, um, generally it's been the same.</p> <p>25 Q What are your general responsibilities in doing a</p>	<p style="text-align: right;">Page 16</p> <p>1 restraints?</p> <p>2 A I'd say more effective. I wouldn't say more</p> <p>3 restrictive, because it's still a two-point</p> <p>4 restraint. And there's -- it's, um -- there's a</p> <p>5 cuff around the wrist or the ankle, but then</p> <p>6 there's a chain, and there's movement within that,</p> <p>7 where they can move around and still roll to one</p> <p>8 side or the other, so they're not like, you know,</p> <p>9 tight.</p> <p>10 Q You still have some movement?</p> <p>11 A Yes, you have movement with that.</p> <p>12 Q Is it tight around the wrist and the ankle?</p> <p>13 MR. KNOTT: Object to form, it's vague,</p> <p>14 overly broad.</p> <p>15 MS. KUGLER: Join.</p> <p>16 MR. RAUSCHER: I'll tell you, it's their</p> <p>17 job to object, and there's nothing wrong with doing</p> <p>18 that. Unless they instruct you not to answer, you</p> <p>19 should answer. But I should also tell you, if you</p> <p>20 don't understand one of my questions, just tell me</p> <p>21 and I'll try to rephrase it.</p> <p>22 THE WITNESS: Okay.</p> <p>23 BY MR. RAUSCHER:</p> <p>24 Q Is it -- are we too far past the question for you</p> <p>25 to remember what I asked?</p>
<p style="text-align: right;">Page 15</p> <p>1 hospital watch?</p> <p>2 A Um, basically, the primary responsibility is to</p> <p>3 keep both the patient, as well as the medical staff</p> <p>4 and the hospital, secure and safe.</p> <p>5 Q And are there certain things you always or you</p> <p>6 typically do to keep the patient and the hospital</p> <p>7 staff safe?</p> <p>8 A Um, typically, um, policy tells us that we should</p> <p>9 have two-point restraints on inmates while they are</p> <p>10 at the hospital. Usually it's, um, one wrist and</p> <p>11 the opposite ankle.</p> <p>12 Q Did the restraint policy change at all over the</p> <p>13 years?</p> <p>14 A Um, I believe it -- I want to say I believe it did.</p> <p>15 Um, I don't think when I first started doing them</p> <p>16 when I was in the jail, that it was opposite. It</p> <p>17 was always two-point restraint. Um, but there were</p> <p>18 several reports over the country of -- of inmates</p> <p>19 either hurting themselves, or in an attempt to</p> <p>20 escape, um, if they were both on the same side,</p> <p>21 rolling over off of the bed and, like I said,</p> <p>22 getting hurt or using it as a way to try to get</p> <p>23 out.</p> <p>24 Q Would the -- so is the opposite -- having opposite</p> <p>25 wrist and ankle more restrictive, or more effective</p>	<p style="text-align: right;">Page 17</p> <p>1 A I don't think so. You asked about tightness.</p> <p>2 Q Yes.</p> <p>3 A What was the question?</p> <p>4 Q Are the -- so let me back up a step. What's</p> <p>5 attached to the wrist and ankle?</p> <p>6 A A cuff.</p> <p>7 Q Is the cuff supposed to be tightly attached to the</p> <p>8 wrist and the ankle?</p> <p>9 MR. KNOTT: Object to the form, it's just</p> <p>10 vague. You can answer if you're able.</p> <p>11 THE WITNESS: Um, not -- I wouldn't say</p> <p>12 -- it depends what you mean by "tight". It</p> <p>13 shouldn't be to the point where you can slide it</p> <p>14 off the hand, basically. Sometimes people might</p> <p>15 have, you know, real thin hands, which sometimes,</p> <p>16 you know, or if they complain -- I mean, typically</p> <p>17 a lot of times, whether they're in the hospital or</p> <p>18 not in the hospital, inmates will complain about</p> <p>19 cuffs being too tight. But there are various ways</p> <p>20 to work with that as well.</p> <p>21 BY MR. RAUSCHER:</p> <p>22 Q What are some of the ways to work with that?</p> <p>23 A Um, normally you would check it. Um, if you can</p> <p>24 fit two fingers under between the wrist and the</p> <p>25 cuff, then it's considered not too tight.</p>

<p style="text-align: right;">Page 18</p> <p>1 Um, if they continue -- if they -- if</p> <p>2 somebody continues to complain about it, you can do</p> <p>3 things such as if they're in the hospital, like put</p> <p>4 a washcloth in between the cuff, because sometimes</p> <p>5 it's just the metal, you know, to make it soft --</p> <p>6 softer, type of thing.</p> <p>7 Q Did the -- well, what's -- you said there was a</p> <p>8 chain, also, somewhere?</p> <p>9 A Um, the cuff then is attached to a chain, which is</p> <p>10 usually attached to the bed.</p> <p>11 Q And is that for both the ankle and the wrist?</p> <p>12 A Yes.</p> <p>13 Q About how long are the chains?</p> <p>14 A Um, I would -- I've seen some longer and some</p> <p>15 shorter. So, I mean, I would estimate at about</p> <p>16 three to five feet.</p> <p>17 Q Each -- each chain, the wrist and ankle?</p> <p>18 A Yes.</p> <p>19 Q Okay. Was the restraint policy applied to pregnant</p> <p>20 women the same way it was applied to everybody</p> <p>21 else?</p> <p>22 A Yes. Until there was a new policy that came out.</p> <p>23 Q And when was the new policy, if you know?</p> <p>24 A When?</p> <p>25 Q Do you know when the new policy came out?</p>	<p style="text-align: right;">Page 20</p> <p>1 BY MR. RAUSCHER:</p> <p>2 Q Did you do any hospital watches for women who were</p> <p>3 in labor or recovering before the new policy, so</p> <p>4 under the old policy?</p> <p>5 A Yes.</p> <p>6 Q And did you ever have a woman not in restraints</p> <p>7 before the policy changed?</p> <p>8 A Yes.</p> <p>9 MR. KNOTT: Object to the form, it's</p> <p>10 vague.</p> <p>11 MS. KUGLER: Join.</p> <p>12 MR. KNOTT: Go ahead.</p> <p>13 THE WITNESS: I said yes.</p> <p>14 BY MR. RAUSCHER:</p> <p>15 Q Can you explain when that happened?</p> <p>16 A Um, in May of 2015, um, I had -- was watching a</p> <p>17 female inmate who was, from the reports I was</p> <p>18 given, she had given birth at Mt. Sinai, and then</p> <p>19 was having uncontrollable seizures, where she was</p> <p>20 unresponsive.</p> <p>21 Um, so they moved her to the neonatal unit</p> <p>22 at St. Luke's Hospital, which was kind of in the</p> <p>23 basement. Um, it's set up as a big room, and all</p> <p>24 the rooms are like around in a square with glass</p> <p>25 doors. Um, she was in the next to the end room in</p>
<p style="text-align: right;">Page 19</p> <p>1 A Um, I want to say it came out in January or early</p> <p>2 February of 2017.</p> <p>3 Q How were you informed of the new policy?</p> <p>4 A Via e-mail.</p> <p>5 Q What is the new policy for restraining pregnant</p> <p>6 women?</p> <p>7 A Um, that if a woman is in the process of</p> <p>8 childbirth, or is recovering from childbirth, they</p> <p>9 are not to be restrained.</p> <p>10 Q Have you done any hospital watches for women in the</p> <p>11 process of childbirth, or recovery from childbirth,</p> <p>12 since the policy changed?</p> <p>13 A Yes.</p> <p>14 Q And have you applied restraints to any of those</p> <p>15 women?</p> <p>16 A No.</p> <p>17 Q Have you seen restraints applied to any of those</p> <p>18 women?</p> <p>19 A No.</p> <p>20 Q Have there been any safety issues that have arisen</p> <p>21 from the lack of restraints?</p> <p>22 A No.</p> <p>23 MS. KUGLER: Objection.</p> <p>24 MR. KNOTT: Object to the form.</p> <p>25</p>	<p style="text-align: right;">Page 21</p> <p>1 the corner. And, um, on my watch, she had just --</p> <p>2 was -- from the reports I was given, she was just</p> <p>3 coming out of her -- she was starting to be</p> <p>4 responsive and alert.</p> <p>5 Um, they took out the catheter. She had a</p> <p>6 catheter in because she was not aware of her</p> <p>7 surroundings and whatnot, um, earlier in that day</p> <p>8 during my shifts. And she had to go to the</p> <p>9 bathroom. She had gotten lunch and she had to go</p> <p>10 to the bathroom she said.</p> <p>11 Um, she appeared to me, from the time I was</p> <p>12 there, to be very shaky and unstable. I was</p> <p>13 concerned about her ability to get up, since she</p> <p>14 had been in bed for several days, and not even</p> <p>15 conscious, as far as knowing what her surroundings</p> <p>16 were.</p> <p>17 Um, she had to go to the bathroom. The</p> <p>18 bathroom wasn't -- most hospital rooms have a</p> <p>19 bathroom within the room, but it's a separate room.</p> <p>20 This bath -- this bathroom was a pull-out toilet</p> <p>21 underneath the sink right next to the bed, in the</p> <p>22 ICU room. Um, so I called the nurse, I let her</p> <p>23 know that the inmate needed to go to the bathroom.</p> <p>24 And I didn't have radio contact in this room,</p> <p>25 because it was in the basement at St. Luke's.</p>

<p style="text-align: right;">Page 22</p> <p>1 So she -- the nurse and I helped her to get 2 up. I undid her restraints so she could get up. 3 Um, she went to the bathroom, it wasn't an issue. 4 But as she was getting back into bed, she reached 5 towards my waist and stated, "Give me your gun." 6 Q And then what happened after she did that? 7 A Um, basically I twisted away from her, which did 8 cause her to fall, due to her unstable -- 9 unstableness. I secured her. Um, got her back 10 into the bed and secured -- restrained her at that 11 point. 12 Q Was she in a physical condition where she could 13 have had any reasonable chance of taking your gun? 14 MS. KUGLER: Objection, form. 15 MR. KNOTT: Object to the form, calls for 16 speculation. 17 THE WITNESS: Still answer? 18 MR. RAUSCHER: Yes. 19 THE WITNESS: Okay, I don't believe she 20 had any ability to locate my firearm. 21 BY MR. RAUSCHER: 22 Q You didn't -- were you scared that she would get 23 your gun? 24 A It's hard to remember in that circumstance. 25 Because, like I said, I twisted away, she fell to</p>	<p style="text-align: right;">Page 24</p> <p>1 MR. RAUSCHER: You have the report? 2 MR. KNOTT: Her report, yeah. So we can 3 mark it as an exhibit, you can take a second to 4 look at it. I think you produced a document on 5 this. 6 MR. RAUSCHER: I'm sure that we did. 7 MR. KNOTT: So why don't we take a 8 minute. 9 (Off-the-record discussion held.) 10 BY MR. RAUSCHER: 11 Q How many hospital watches overall do you think 12 you've conducted for women who were pregnant? 13 A I'd say probably 80 percent of the ones I've done. 14 So -- 15 Q So 80 percent? 16 A -- when I'm saying around a hundred, yeah. 17 Q And are you counting in that group people who you 18 saw just after they had already given birth, so in 19 recovery? 20 A Yeah, I'm referring to that they're not -- lots of 21 times if I went, they had given birth already and I 22 was watching them until they got discharged. 23 Q Other than the one who you just mentioned, the one 24 incident for the inmate who you just mentioned, did 25 you have any other safety issues that arose from</p>
<p style="text-align: right;">Page 23</p> <p>1 the ground. It happened really fast. And I was 2 able to get her hands behind her back and -- and 3 secure them. 4 So I don't really think I felt like she was 5 ever going to get my firearm. And if she had -- if 6 I did, I wouldn't have let her up. I felt because 7 of her condition, that even if she did attempt 8 something, there -- she wouldn't have been suc -- I 9 believed at the time that she wouldn't have been 10 successful. 11 Q Did she actually make a move for your gun, or did 12 she just say, "Give me your gun"? 13 A She definitely reached for it. She never got it 14 out of the holster or anything like that. 15 Q Did she touch you? 16 A She touched me, yeah. But I was trying to help her 17 into bed at the time, so we were right next to each 18 other. 19 Q You were already touching when she -- 20 A Yeah. 21 Q Do you remember that woman's name? 22 A Um, I should. Last name Williams. First name 23 starts with an S. 24 Q Do you know -- 25 MR. KNOTT: I actually have --</p>	<p style="text-align: right;">Page 25</p> <p>1 pregnant women or women recovering from giving 2 birth? 3 MR. KNOTT: Object to the form of the 4 question, it's vague. 5 MS. KUGLER: Join. 6 MR. KNOTT: Foundation, overly broad. 7 THE WITNESS: I -- I personally didn't 8 have any issues other than that one. 9 BY MR. RAUSCHER: 10 Q And did you ever observe any other safety issues? 11 MR. KNOTT: Object to the form of the 12 question. Same. 13 THE WITNESS: Could you clarify? 14 BY MR. RAUSCHER: 15 Q Did you ever observe any safety issues with 16 pregnant women or women recovering from labor, so 17 any threats that they made, any attempt at escapes, 18 anything like that? 19 MR. KNOTT: Same. 20 THE WITNESS: No threats or anything. A 21 lot of times, you know, wanting to -- to contact 22 family is the main thing. Um, there's a phone in 23 the room, but they're not allowed to use it. Um, 24 trying to contact family, let them know where they 25 were, which is -- part of the hospital watch is to</p>

<p style="text-align: right;">Page 26</p> <p>1 not have family show up, because you don't know 2 what they're going to have on them or how they're 3 going to react. 4 BY MR. RAUSCHER: 5 Q And other than the one incident we just discussed, 6 did you ever participate in a hospital watch for a 7 pregnant woman, or a woman recovering from giving 8 birth, who was not restrained? 9 A Since the policy. 10 Q Okay. 11 A I don't recall that happening before the policy 12 change. 13 Q Okay. How many of the 80 or so hospital watches 14 for pregnant women or women recovering from labor 15 happened before the policy change? 16 MR. KNOTT: Object to the form of the 17 question, I'm not sure that's what she estimated 18 for 80 to a hundred. I may have misheard that. 19 BY MR. RAUSCHER: 20 Q So let's clarify -- let me clarify that. Did you 21 estimate you participated in 80 or so hospital 22 watches for women? 23 A As a guess, yeah, approximate guess. 24 Q Was that your best estimate? 25 A Yes.</p>	<p style="text-align: right;">Page 28</p> <p>1 court duties, I sometimes am assigned to work the 2 visiting lobby of the jail. So I've -- I have -- 3 there are also COs that come in and out of there 4 that might have said something to that effect. I'm 5 not sure who is the one or two, three people that 6 said something. 7 Q Did you have any concerns about the new policy? 8 MR. KNOTT: Object to the form. 9 MS. KUGLER: Join. 10 THE WITNESS: Some. 11 BY MR. RAUSCHER: 12 Q What were your concerns about the new restraining 13 policy? 14 A While I believe you need to use your best judgment, 15 and that's what we were always trained, that there 16 are policies, but you have to use your best 17 judgment on each individual scenario, um, that 18 there are definite concerns about the safety, both 19 of the hospital staff, of the deputy or the person 20 who's watching them, as well as the inmate 21 themselves, if -- if there is any attempt at 22 escape. 23 Or, you know, you have people that use 24 drugs, it's a hospital, there's concerns getting 25 ahold of medications as well, things like that.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q And how many of those 80 or so were before the 2 policy was changed? 3 A I would say, if we're saying 80, probably like 96. 4 I mean, 76, sorry. I think I've only done about 5 three or four since. 6 Q Okay. Of those 76 or so, the only time that you 7 had someone who was not restrained was the one 8 incident you already discussed today; is that 9 right? 10 A Correct. 11 Q Were you given an explanation as to why the policy 12 unrestraining pregnant women was changed? 13 A Um, not really. The new policy came out, there was 14 rumors, but I wasn't told anything officially. 15 Q What were the rumors that you heard? 16 MR. KNOTT: Form. 17 MS. KUGLER: Join. 18 THE WITNESS: That someone, a female 19 inmate, was suing the County. 20 BY MR. RAUSCHER: 21 Q And was it changed because of the lawsuit, that was 22 the rumor? 23 A That was the rumor. 24 Q Do you remember who told you that? 25 A No. Fellow deputies. Or I work -- as part of my</p>	<p style="text-align: right;">Page 29</p> <p>1 Suicidal inmates who might get ahold of things that 2 they shouldn't have. 3 Q And was -- did you have a concern that not 4 restraining women in labor, or who were recovering 5 from giving birth, would let those -- would it 6 increase the chance of escape or suicide or 7 something like that? 8 MR. KNOTT: Object to the form of the 9 question. It's vague, overly broad. 10 MS. KUGLER: Join. 11 THE WITNESS: I believe that it could 12 cause an increase, yes. 13 Q Were there any particular risks that you thought 14 were increased by not restraining pregnant women or 15 women recovering from giving birth? 16 MR. KNOTT: Object to the form, it's 17 vague and overly broad. 18 THE WITNESS: I'm sorry, could you repeat 19 that? 20 MR. RAUSCHER: Sure. 21 Q Were there any particular concerns, any risks that 22 you thought were increasing because of the new 23 policy that called to not restrain pregnant women 24 or women recovering from giving birth? 25 MR. KNOTT: Foundation, form.</p>

<p style="text-align: right;">Page 30</p> <p>1 THE WITNESS: Well, as just having that</p> <p>2 particular incident, you know, about a year or so</p> <p>3 before that, and -- and going through a</p> <p>4 disciplinary process because of that policy while</p> <p>5 this -- during the time the policy was being</p> <p>6 changed, um, yes, it brought concerns.</p> <p>7 BY MR. RAUSCHER:</p> <p>8 Q And tell me about the dis -- disciplinary process</p> <p>9 that you went through after the woman told you to</p> <p>10 give her your gun?</p> <p>11 MR. KNOTT: Object to the form.</p> <p>12 THE WITNESS: Um, basically I got a</p> <p>13 notice saying that I was under investigation. Um,</p> <p>14 I was interviewed through our Internal Affairs</p> <p>15 Division, after which I received a letter from my</p> <p>16 supervisors giving me a period of suspension. Um,</p> <p>17 I served the suspension, after which I filed an</p> <p>18 appeal, which was unsuccessful. And that's about</p> <p>19 it.</p> <p>20 BY MR. RAUSCHER:</p> <p>21 Q Did you think it was fair that you were suspended?</p> <p>22 A Yes. Not necessarily the amount of days I was</p> <p>23 given without pay, but yes, because I did violate</p> <p>24 the policy.</p> <p>25 Q Did you exercise your best judgment when you</p>	<p style="text-align: right;">Page 32</p> <p>1 BY MR. RAUSCHER:</p> <p>2 Q That was a general thing for policies in general,</p> <p>3 not for this restraint policy, correct?</p> <p>4 A Correct.</p> <p>5 Q And the restraint policy doesn't actually leave</p> <p>6 room for you to exercise your judgment, does it?</p> <p>7 MR. KNOTT: Object to the form of the</p> <p>8 question.</p> <p>9 MS. KUGLER: Join.</p> <p>10 MR. KNOTT: Calls for speculation. Are</p> <p>11 you asking for her opinion, or are you asking for</p> <p>12 somebody else's opinion?</p> <p>13 MR. RAUSCHER: You can answer.</p> <p>14 MR. KNOTT: It's multiple.</p> <p>15 THE WITNESS: Um, I'm sorry, can you</p> <p>16 repeat the question?</p> <p>17 MR. RAUSCHER: Can you read the question</p> <p>18 back, please?</p> <p>19 (Question read back by the court reporter.)</p> <p>20 THE WITNESS: I would say most of the</p> <p>21 policies, as you would say, would not leave room</p> <p>22 for you to -- but we're told we should exercise our</p> <p>23 best judgment. But most policies are very</p> <p>24 straightforward.</p> <p>25</p>
<p style="text-align: right;">Page 31</p> <p>1 removed the restraints to allow that woman to go to</p> <p>2 the bathroom?</p> <p>3 A I thought I was, yes.</p> <p>4 Q How is it that you violated the policy, although</p> <p>5 you used your best judgment?</p> <p>6 MR. KNOTT: Object to the form.</p> <p>7 MS. KUGLER: Join.</p> <p>8 MR. KNOTT: Calls for speculation.</p> <p>9 THE WITNESS: The policy says they're</p> <p>10 supposed to be restrained at all times.</p> <p>11 BY MR. RAUSCHER:</p> <p>12 Q No matter what?</p> <p>13 MR. KNOTT: Object to the form of the</p> <p>14 question.</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. RAUSCHER:</p> <p>17 Q It doesn't leave room for you to exercise your</p> <p>18 judgment, right?</p> <p>19 MR. KNOTT: Object to the form of the</p> <p>20 question, calls for speculation, vague and overly</p> <p>21 broad.</p> <p>22 THE WITNESS: As I stated when we went</p> <p>23 through the academy, we were told as far as</p> <p>24 policies go, we are to follow them, but use our</p> <p>25 best judgment, so.</p>	<p style="text-align: right;">Page 33</p> <p>1 BY MR. RAUSCHER:</p> <p>2 Q And is the restraint policy one of those policies</p> <p>3 that's straightforward and it does not leave room</p> <p>4 for you to exercise your judgment?</p> <p>5 MR. KNOTT: Object, misstates her</p> <p>6 testimony, it's also multiple, and you won't</p> <p>7 specify if you're asking for her opinion or</p> <p>8 somebody else's.</p> <p>9 MS. KUGLER: Join.</p> <p>10 THE WITNESS: Like I said, we can use --</p> <p>11 we were told in the academy to use our best</p> <p>12 judgment. In my particular estimate, or my</p> <p>13 particular issue where I had somebody try to do</p> <p>14 something, I was using my best judgment and I got</p> <p>15 disciplined for doing so.</p> <p>16 BY MR. RAUSCHER:</p> <p>17 Q After going through that discipline process, do you</p> <p>18 believe the restraint policy that existed at the</p> <p>19 time in 2015 allowed room for you to use your best</p> <p>20 judgment?</p> <p>21 MR. KNOTT: Object, calls for</p> <p>22 speculation, vague as to circumstance.</p> <p>23 THE WITNESS: I feel like you're asking</p> <p>24 me the same question, and so my answer would be the</p> <p>25 same in that, um, we were told we can use our best</p>

<p style="text-align: right;">Page 34</p> <p>1 judgment, yet I guess that's -- to those</p> <p>2 supervising us, that determines that after the</p> <p>3 fact, in some instances.</p> <p>4 BY MR. RAUSCHER:</p> <p>5 Q So I think what I'm trying to understand is why if</p> <p>6 you believed the policies allowed you to use your</p> <p>7 best judgment, and you did use your best judgment,</p> <p>8 you also think it was fair for getting disciplined</p> <p>9 and suspended for choosing not to restrain a woman</p> <p>10 while she was going to the bathroom?</p> <p>11 MR. KNOTT: Object to the form of the</p> <p>12 question, it's argumentative. I think it embeds</p> <p>13 the prior problems, which is speculation as to</p> <p>14 other's opinions, and it's vague as to</p> <p>15 circumstance, but answer if you're able.</p> <p>16 MS. KUGLER: Join.</p> <p>17 THE WITNESS: I guess I felt that, um, to</p> <p>18 an extent that's true, because I did fight it. Um,</p> <p>19 like I said, a big reason I fought it was the</p> <p>20 amount of time I was given, which was ten days. If</p> <p>21 I had -- plus I had no prior IA cases where I was</p> <p>22 the subject.</p> <p>23 Um, so by my past reviews, um, I thought</p> <p>24 that was a harsh amount. Um, but policies still</p> <p>25 are there for a reason, so, you know, that's why I</p>	<p style="text-align: right;">Page 36</p> <p>1 particular person had when I didn't follow policy.</p> <p>2 But by a general rule, I followed the policy.</p> <p>3 BY MR. RAUSCHER:</p> <p>4 Q You weren't going into a hospital watch and saying</p> <p>5 does this woman present a security risk or is she</p> <p>6 suicidal or anything like that, as a general</p> <p>7 matter, correct?</p> <p>8 A Correct.</p> <p>9 MR. KNOTT: Object to the form of the</p> <p>10 question, it's vague, overly broad, multiple.</p> <p>11 THE WITNESS: Yes.</p> <p>12 MR. RAUSCHER: Mark this as Exhibit 1,</p> <p>13 please.</p> <p>14 (Exh. 1 marked for identification.)</p> <p>15 BY MR. RAUSCHER:</p> <p>16 Q Do you recognize this document, which is</p> <p>17 Bates-stamped MKE County 180 to 192?</p> <p>18 A I do.</p> <p>19 Q Can you tell me what it is?</p> <p>20 A It's a hospital watch log. Copies of a hospital</p> <p>21 watch log.</p> <p>22 Q Is this something that is prepared as a standard</p> <p>23 part of your job on hospital watches?</p> <p>24 A Yes.</p> <p>25 Q Have you reviewed this document before?</p>
<p style="text-align: right;">Page 35</p> <p>1 said I can -- I wouldn't have fought it if it had</p> <p>2 been, you know, a day or two.</p> <p>3 BY MR. RAUSCHER:</p> <p>4 Q Did you make a determination each of the 76 or so</p> <p>5 times when you were on a hospital watch with a</p> <p>6 woman who was pregnant or recovering from giving</p> <p>7 labor, as to whether restraints should be applied?</p> <p>8 MR. KNOTT: Object, overly broad, vague.</p> <p>9 THE WITNESS: I -- I'm trying to</p> <p>10 understand what you're asking, I guess.</p> <p>11 BY MR. RAUSCHER:</p> <p>12 Q What I'm asking is, you did about 76 hospital</p> <p>13 watches for women who were either in labor or</p> <p>14 recovering; is that right?</p> <p>15 A Yes.</p> <p>16 Q And for each of those, did you make -- did you make</p> <p>17 your own independent determination whether the</p> <p>18 woman should be shackled, or did you just apply the</p> <p>19 policy?</p> <p>20 MR. KNOTT: Object to the form, it's</p> <p>21 vague and overly broad. Vague as to time, and</p> <p>22 multiple.</p> <p>23 THE WITNESS: In general, I follow the</p> <p>24 policy, unless I felt there were extenuating</p> <p>25 circumstances, like two days of seizures that the</p>	<p style="text-align: right;">Page 37</p> <p>1 A Um, I saw it since the hospital watch on one</p> <p>2 occasion, since between then and today.</p> <p>3 Q And when was that occasion?</p> <p>4 A About a week and a half ago.</p> <p>5 Q Was that to prepare for your deposition today?</p> <p>6 A Um, yes.</p> <p>7 Q And what did you do to prepare for your deposition</p> <p>8 today? And I don't want to know about substantive</p> <p>9 conversations you had with your attorney, but I</p> <p>10 want to know if you met with anybody, if you looked</p> <p>11 at documents?</p> <p>12 A Um, I came to this location, actually, this room,</p> <p>13 and I met with the attorney, um, who basically</p> <p>14 explained the reason of my subpoena.</p> <p>15 Q Did you meet with Mr. Knott?</p> <p>16 A Yes.</p> <p>17 Q Did you look at any documents, other than this one?</p> <p>18 A Um, one other sheet, which was this.</p> <p>19 Q Can I take a look at that for a second? Thank you.</p> <p>20 A Mm-hmm.</p> <p>21 Q What's the purpose of these log sheets that we've</p> <p>22 marked as Exhibit 1?</p> <p>23 A Basically to keep a record of, um -- there's</p> <p>24 logbooks basically throughout the jail, is their</p> <p>25 way of being able to keep records before we were</p>

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<p>1 all computerized, which we are now, or they are</p> <p>2 now.</p> <p>3 Q So they don't make these handwritten logbooks?</p> <p>4 A They do on occasion, but only if the computer</p> <p>5 system is down, then they're to refer back to using</p> <p>6 logbooks.</p> <p>7 Q Were you trained on how to make logbooks?</p> <p>8 A Logbook entries?</p> <p>9 Q Yeah.</p> <p>10 A Yes.</p> <p>11 Q What did that training consist of?</p> <p>12 A Um, basically when -- once you graduated from the</p> <p>13 academy and we were in the jail, because they used</p> <p>14 them, it was more hands-on, you had a trainer and</p> <p>15 they went through your daily, you know, what was</p> <p>16 expected of you.</p> <p>17 Q Take a look at the first page of this, MKE County</p> <p>18 180.</p> <p>19 A Okay.</p> <p>20 Q About four rows up from the bottom, it looks like</p> <p>21 -- well, let me just ask you. Can you tell what it</p> <p>22 says on the left-hand side, over like far left? Is</p> <p>23 that 6127?</p> <p>24 A All I can clearly see is the 27.</p> <p>25 Q Okay. Is that your handwriting over there?</p>	<p>1 going on.</p> <p>2 Q Is it --</p> <p>3 A And I was just debriefed by the people -- I was</p> <p>4 just coming on and replacing the people before me,</p> <p>5 so it's to say the condition I found the inmate in.</p> <p>6 Q Okay. Do you know if part of the reason -- well,</p> <p>7 did someone instruct you to write down how the</p> <p>8 inmate is restrained? I don't mean specifically</p> <p>9 for Rebecca Terry, but I mean generally, were you</p> <p>10 ever instructed on that?</p> <p>11 A No, not that I can recall. It was just common</p> <p>12 practice when you look at, you know, previous ones,</p> <p>13 and, I mean, once you do it, everybody pretty much</p> <p>14 follows that.</p> <p>15 Q Okay, that's something you did typically as part of</p> <p>16 hospital watch, but no one specifically ever told</p> <p>17 you to do that?</p> <p>18 A Correct. If they did, I don't remember.</p> <p>19 Q And can you turn to the second page, please? Is</p> <p>20 everything on this page your handwriting?</p> <p>21 A No.</p> <p>22 Q Can you tell me which parts are and are not your</p> <p>23 handwriting?</p> <p>24 A Um, it is except for the entry made at 1308 hours.</p> <p>25 Q And that's Lieutenant Briggs?</p>
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<p>1 A No.</p> <p>2 Q And what about underneath, I see something "wrist"?</p> <p>3 A It looks like "wrist", but, um, no, that's not my</p> <p>4 handwriting.</p> <p>5 Q Okay. Is the handwriting on -- well, is any part</p> <p>6 of the handwriting on this first page yours?</p> <p>7 A What do you mean on the first page?</p> <p>8 Q The page we're on.</p> <p>9 A Oh, on this page, yes. On starting the column</p> <p>10 over, um, starting with Monday, March 10th, at --</p> <p>11 to the bottom of the page. Other than that stuff</p> <p>12 in the left -- left, which I'm guessing is the</p> <p>13 page, prior Page 64, part of it, but I'm not sure.</p> <p>14 Q Okay. And four rows up it says -- is that a delta</p> <p>15 sign? What's the -- it says something "restrained</p> <p>16 by left wrist and right ankle"?</p> <p>17 A Yeah, that's a common symbol we use for "inmate".</p> <p>18 Q Okay, so this is saying inmate restrained by left</p> <p>19 wrist and right ankle?</p> <p>20 A Yes.</p> <p>21 Q And you wrote that?</p> <p>22 A I did.</p> <p>23 Q And what's the purpose of writing that down?</p> <p>24 A Um, like I said, just basic record keeping and so</p> <p>25 everybody is on the same page as far as what's</p>	<p>1 A Yes.</p> <p>2 Q Who's Lieutenant Briggs?</p> <p>3 A He's a lieutenant in the jail.</p> <p>4 Q And do you recall him coming in to do an</p> <p>5 inspection?</p> <p>6 A Specifically at this point, no. It was four and a</p> <p>7 half years ago.</p> <p>8 Q Do you have any independent recollection of meeting</p> <p>9 Rebecca Terry or being in the hospital with her?</p> <p>10 A I don't remember her specifically.</p> <p>11 Q Okay.</p> <p>12 A If that's what you're asking.</p> <p>13 Q Yeah, I'm asking, other than looking at your</p> <p>14 documents, do you have any memory of meeting with</p> <p>15 her, being in the hospital, or anything else about</p> <p>16 her?</p> <p>17 A No.</p> <p>18 Q Is it common that a lieutenant comes and does</p> <p>19 inspections during hospital watch?</p> <p>20 A Generally once a shift, yes.</p> <p>21 Q Do you know what the purpose of those inspections</p> <p>22 are?</p> <p>23 A Um, I would say to make sure that everybody is safe</p> <p>24 and secure.</p> <p>25 Q Do you know why Lieutenant Briggs wrote down,</p>

Page 42	Page 44
<p>1 "Inmate was secured by right ankle and wrist?"</p> <p>2 A Um, I think, again, that's customary for them to</p> <p>3 put down how the person was restrained.</p> <p>4 Q Do you know why --</p> <p>5 A On any hospital watch.</p> <p>6 Q Do you know why that's customary?</p> <p>7 A Because they're -- per policy, they're supposed to</p> <p>8 be restrained.</p> <p>9 Q They want to make sure that the policy is being</p> <p>10 complied with?</p> <p>11 A That would be my assumption.</p> <p>12 Q And then if you look above that, there's a bunch of</p> <p>13 rows that say 10-49, and it looks like your</p> <p>14 initials, and 793; is that right?</p> <p>15 A Yes.</p> <p>16 Q Can you tell me what those mean?</p> <p>17 A We have to call in to dispatch every --</p> <p>18 approximately every 30 minutes, um, and we call in</p> <p>19 10-49, it's letting them know everything's good,</p> <p>20 everything's okay. And then just my initials and</p> <p>21 my badge number, 793.</p> <p>22 Q Looking down toward the bottom, there's an entry at</p> <p>23 1504.</p> <p>24 A Mm-hmm.</p> <p>25 Q It says, "Baby brought into room, wrists are</p>	<p>1 A Um --</p> <p>2 MR. KNOTT: You're asking about her</p> <p>3 personal practice?</p> <p>4 MR. RAUSCHER: Yes.</p> <p>5 THE WITNESS: It wasn't -- it wasn't very</p> <p>6 common practice, so I don't know if I can put it in</p> <p>7 to common practice. Um, I won't say -- I can't say</p> <p>8 I always did that.</p> <p>9 BY MR. RAUSCHER:</p> <p>10 Q Sometimes you did, sometimes you didn't?</p> <p>11 A I believe it was based on circumstances, yes.</p> <p>12 Q What circumstances would you typically take a wrist</p> <p>13 restraint off while a woman was holding her baby?</p> <p>14 A Um, I mean, if you're just -- if you're just</p> <p>15 holding the child, you could, you know, have him</p> <p>16 cradled in your other hand and -- and, you know, be</p> <p>17 using it, but you don't want the baby to fall or</p> <p>18 anything like that.</p> <p>19 So if a nurse, medical staff was around or</p> <p>20 present, um, I mean, I'm present as well, where I</p> <p>21 try to assist in situations like that and stay</p> <p>22 close. But, um, if I felt that either one of them</p> <p>23 could be in danger by it being there, that's when I</p> <p>24 would remove it.</p> <p>25 Q Other than thinking that a baby or a mother might</p>
Page 43	Page 45
<p>1 removed while holding baby. Out at left wrist</p> <p>2 restrained," with the right crossed out before</p> <p>3 left; do you see that?</p> <p>4 A Yes.</p> <p>5 Q Can you tell me what that means?</p> <p>6 A Um, by -- by looking at the entry, her baby was</p> <p>7 brought into the room. Um, because of that, her</p> <p>8 wrist was removed so she could hold the baby. I</p> <p>9 don't know what she was asked to do, if she was</p> <p>10 just holding the baby, or if she was asked to do</p> <p>11 something with the baby. But, um, that her left</p> <p>12 wrist was removed for a period of time while she</p> <p>13 had the baby in her arms.</p> <p>14 Q Was it common to remove a wrist restraint when a</p> <p>15 woman was holding her baby?</p> <p>16 MR. KNOTT: Form, it's vague, overly</p> <p>17 broad, calls for speculation. You can answer.</p> <p>18 THE WITNESS: Again, I would say it's</p> <p>19 specific to the situation. But, um, you don't want</p> <p>20 the child getting hurt, or the -- or her, you know,</p> <p>21 depending what she's doing with the child.</p> <p>22 BY MR. KNOTT:</p> <p>23 Q Was it common in your experience conducting</p> <p>24 hospital watch to take a wrist restraint off while</p> <p>25 a woman holds her baby?</p>	<p>1 be in danger, are there any other reasons you would</p> <p>2 have removed a wrist restraint to allow a mother to</p> <p>3 hold her baby?</p> <p>4 MR. KNOTT: Speculation, foundation.</p> <p>5 MS. KUGLER: Join.</p> <p>6 THE WITNESS: Um, I'm trying to -- I</p> <p>7 don't -- can you repeat?</p> <p>8 MR. RAUSCHER: Yeah, can you read the</p> <p>9 question back, please?</p> <p>10 (Question read back by the court reporter.)</p> <p>11 THE WITNESS: I think that would --</p> <p>12 that's the general rule of practice that I follow</p> <p>13 -- would follow.</p> <p>14 BY MR. RAUSCHER:</p> <p>15 Q Removing it if there's a danger, or if you perceive</p> <p>16 a danger --</p> <p>17 A If I perceive there could be a danger, yes.</p> <p>18 Q How often do you think you removed a restraint to</p> <p>19 allow a mother to hold her baby, before the policy</p> <p>20 was changed?</p> <p>21 A Oh, I really can't say. I don't know.</p> <p>22 Q Do you think it was half of the hospital watches?</p> <p>23 A No, most --</p> <p>24 MR. KNOTT: Foundation, speculation.</p> <p>25 THE WITNESS: Most of the hospital</p>

<p style="text-align: right;">Page 46</p> <p>1 watches I did, um, babies aren't always in the room</p> <p>2 with them, so.</p> <p>3 MR. RAUSCHER: Okay.</p> <p>4 THE WITNESS: I would say it would be</p> <p>5 substantially less than that.</p> <p>6 BY MR. RAUSCHER:</p> <p>7 Q Of the hospital watches where there were babies</p> <p>8 brought into the room, how common -- well, how many</p> <p>9 do you think there were -- how many hospital</p> <p>10 watches do you think you conducted where babies</p> <p>11 were brought into the room?</p> <p>12 A I really don't even want to guess.</p> <p>13 Q Do you think it was single digits?</p> <p>14 MR. KNOTT: Foundation, speculation,</p> <p>15 asked and answered.</p> <p>16 THE WITNESS: Maybe.</p> <p>17 BY MR. RAUSCHER:</p> <p>18 Q I'm just trying to see if we can narrow down the</p> <p>19 range.</p> <p>20 A Maybe more than ten, but I -- like I said, it's</p> <p>21 purely a guess.</p> <p>22 Q Do you remember if Rebecca Terry or anybody else</p> <p>23 ever asked you to remove the restraints?</p> <p>24 A I remember being asked by several different people</p> <p>25 when I'm doing hospital watches to remove</p>	<p style="text-align: right;">Page 48</p> <p>1 THE WITNESS: Like I believe -- like I</p> <p>2 believe I said earlier, you know, what's the reason</p> <p>3 for it. You know, check it if they say it's too</p> <p>4 tight, possibility of loosening it, but not</p> <p>5 removing it for anything like that, no.</p> <p>6 BY MR. RAUSCHER:</p> <p>7 Q Oh, right, you said earlier that you've only done</p> <p>8 it once, right, for the woman that we talked about?</p> <p>9 You only removed restraints once for a pregnant</p> <p>10 woman or someone recovering from labor, and that</p> <p>11 was the one who said, "Give me your gun"; is that</p> <p>12 right?</p> <p>13 MR. KNOTT: I'm going to object. I don't</p> <p>14 remember the testimony that way, but.</p> <p>15 THE WITNESS: No, I don't believe I said</p> <p>16 that.</p> <p>17 BY MR. RAUSCHER:</p> <p>18 Q Okay, how many other times do you remember removing</p> <p>19 restraints from a pregnant woman or a woman</p> <p>20 recovering from birth?</p> <p>21 A Like I said, I don't really remember specifics. I</p> <p>22 would say on rare occasions when the baby is</p> <p>23 brought in, um, but that's rare. And then, ah,</p> <p>24 sometimes when medical staff asks for specific</p> <p>25 tests, like an X-ray, and you can't have it with</p>
<p style="text-align: right;">Page 47</p> <p>1 restraints, yes.</p> <p>2 Q Are you talking about several different people</p> <p>3 during Rebecca Terry's, or several people in your</p> <p>4 career?</p> <p>5 A Several -- several people in my career.</p> <p>6 Q Were any of those involving pregnant women or women</p> <p>7 recovering from labor?</p> <p>8 MR. KNOTT: Foundation.</p> <p>9 THE WITNESS: Just due to the -- that the</p> <p>10 majority of my hospital watches were pregnant</p> <p>11 females, or females recovering from childbirth, I</p> <p>12 would say yes. But it's, you know, I don't</p> <p>13 remember specifics.</p> <p>14 BY MR. RAUSCHER:</p> <p>15 Q Do you remember if they were inmates versus medical</p> <p>16 professionals?</p> <p>17 A Oh, inmates. And occasionally a medical</p> <p>18 professional, um.</p> <p>19 Q Did you -- if an inmate asked you to remove</p> <p>20 restraints and she was either pregnant or</p> <p>21 recovering from giving birth, did you honor that</p> <p>22 request?</p> <p>23 MR. KNOTT: Object to the form. Vague,</p> <p>24 overly broad, calls for speculation.</p> <p>25 MS. KUGLER: Join.</p>	<p style="text-align: right;">Page 49</p> <p>1 the X-ray.</p> <p>2 MR. RAUSCHER: Do you mind if I take a</p> <p>3 quick break?</p> <p>4 MR. KNOTT: Sure.</p> <p>5 (Short recess taken.)</p> <p>6 BY MR. RAUSCHER:</p> <p>7 Q What was your normal shift in 2014?</p> <p>8 A Um, well, I was assigned to courts, so normal shift</p> <p>9 starts at 7:30 in the morning and ends at about</p> <p>10 4:30, approximately, whenever the courts go down,</p> <p>11 which can go up to five o'clock.</p> <p>12 Q Was that the same shift when you were doing</p> <p>13 hospital watch?</p> <p>14 A Um, well, a hospital watch is normally, or has been</p> <p>15 six to two, two to ten, and ten to six. If there's</p> <p>16 -- if there's a new hospital watch, um, like, for</p> <p>17 instance, it shows me on that Monday --</p> <p>18 Q Mm-hmm.</p> <p>19 A -- 7:30, because I didn't know about it, and I --</p> <p>20 it says I went to roll call and then I was assigned</p> <p>21 to a hospital watch, where I believe on respective</p> <p>22 days I knew about it ahead of time so I was at the</p> <p>23 hospital at an earlier hour.</p> <p>24 Q And when you say you went to roll call and were</p> <p>25 assigned, you're looking at the entry that says,</p>

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<p>1 "Roll call, assigned to hospital watch"; is that 2 right? 3 A Correct. 4 Q Was it your standard practice to write down when 5 you were assigned to hospital watch at roll call? 6 A Um, most instances you know about it ahead of time, 7 but I made a point of entering it, because I was 8 not there at the normal start time for a hospital 9 watch. 10 Q Got it. And then you said there were other days 11 where you think you knew about it in advance. Can 12 you tell me what you're talking about? 13 A Um, like we will get told by our supervisor the day 14 before that there's a hospital watch going and 15 you're going to be working there on this shift. 16 Q So when you were assigned at roll call on Monday, 17 March 10th, were you -- Monday, March 10th, 2014, 18 were you told you're going to be at this hospital 19 watch until it's over? 20 A No, basically I showed up for roll call prepared to 21 work at a court from -- and I was told that I was 22 needed to work at this hospital watch. So then I 23 proceeded out there. I -- it's still always under 24 the assumption that you're -- you're done when your 25 shift ends.</p>	<p>1 or "MKE County 183". Again, I don't see my 2 handwriting at all. 3 Q Okay. 4 A The next page I have is Logbook Page 71, and 5 stamped "MKE County 184". I started writing with 6 the line, "Tuesday, March 11th, 2014, first shift, 7 0600 to 1400 hours," through the end of the page. 8 The next page, which is Logbook Page 72, 9 and stamped "MKE County 1" -- I can't really read 10 that over the writing. Um, it's my writing from 11 the top of the page, um, up and to and through the 12 1605 entry, with the exception of the entry made at 13 1312. 14 Q And that's an inspection by, is it Whiting? 15 A Yes. 16 Q Okay. 17 A Then the next page, Logbook Page 73, MKE County 18 186, not my handwriting at all. Logbook Page 74, 19 stamped "MKE County 187", not my writing at all. 20 Logbook Page 75, stamped "MKE County 188", my 21 handwriting first starts where it says, after the 22 vertical slashes, it says, "Wednesday, March 12th, 23 2014, 0600 to 1400 hours," in parentheses, all the 24 way down to the end of the page. 25</p>
Page 51	Page 53
<p>1 Q And then is there -- is there an assumption that 2 you continue the next day and the next day, if that 3 person is still in the hospital, or not really? 4 A Not necessarily. Um, I notice I was, um, looking 5 at the logs, on day shift for a number of days. 6 But normally it's a different person each shift, 7 unless my courtroom could have been down, because 8 my judge might have been on vacation or something, 9 so I was available to be moved around more. 10 Q You just, you don't know that, you're just thinking 11 of reasons? 12 A Yes, I don't know that. 13 Q Can you tell me, looking through this packet which 14 has been marked as Exhibit 1, which pages and which 15 parts are your handwriting? 16 A Um, so on the top page, which is labeled "65" at 17 the top, or stamped "MKE County 180" at the bottom, 18 my handwriting starts with the, "Monday, 19 March 10th, 2014, first shift, 0730 to 1530 hours." 20 Then the following page, which is marked as 21 "68" by the logbook, and the "MKE County 181" at 22 the bottom, my handwriting is the entire page 23 except for the one entry at 1308. Logbook Page 69, 24 or MKE County 182, I don't see my handwriting at 25 all. The next page I have is labeled Logbook "70",</p>	<p>1 And then Logbook Page 76, stamped "MKE 2 County 189", um, it's my handwriting except for the 3 bottom line where it says, "Lieutenant Andrykowski 4 removed book per Squad 303." 5 Then a new -- it looks like a new logbook 6 was started, and it says Logbook Page 18 at the 7 top. At the bottom it's stamped "MKE County 190". 8 The second line of writing is mine, where it has a 9 little triangle symbol, which we use the shorthand 10 for the word "inmate". And it has the inmate's 11 name, sex, race and date of birth. And then it's 12 not my writing until I wrote in, "Continued from 13 other log," and then 1300 hours, the entry is 1300 14 hours through 1654 hours is my writing on that 15 page. 16 Q Okay. 17 A Then going on to page, Logbook Page 19, stamped 18 "MKE County 191", my writing starts after the 19 vertical slash marks. It says, "Thursday, 20 March 13th, 2014, first shift, 0600 to 1400 hours," 21 through the end of the page is my writing. 22 And then continuing, Logbook Page 20, 23 stamped "MKE County 192". It's my writing the 24 entire page, with the exception of the entry made 25 at 1252 hours, which is another supervisor's entry.</p>

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<p>1 Q And what's the supervisor there?</p> <p>2 A Lieutenant Hein.</p> <p>3 Q Are the entries that you made in the logbook you</p> <p>4 just identified as your handwriting, are they all</p> <p>5 accurate?</p> <p>6 A What do you mean by that?</p> <p>7 Q Are they accurate reflections of the scene as it</p> <p>8 existed at the time?</p> <p>9 MR. KNOTT: Form.</p> <p>10 MS. KUGLER: Join.</p> <p>11 THE WITNESS: If I understand your</p> <p>12 question.</p> <p>13 BY MR. RAUSCHER:</p> <p>14 Q Let me try to -- so, for example, where you</p> <p>15 described at various places how Rebecca Terry was</p> <p>16 restrained and at what times, were those all</p> <p>17 accurate entries?</p> <p>18 A I would say so.</p> <p>19 Q And the same for everything else you wrote,</p> <p>20 accurate description as to what you observed at the</p> <p>21 time --</p> <p>22 A Yes.</p> <p>23 Q -- what you were doing at the time?</p> <p>24 MR. KNOTT: Object to form.</p> <p>25 THE WITNESS: (Witness nods head.)</p>	<p>1 A I don't remember.</p> <p>2 Q Do you remember if you ever learned anything about</p> <p>3 her criminal history or why she was incarcerated?</p> <p>4 A Over -- if I didn't learn it before I got there, I</p> <p>5 learned it when I got there, because we keep their</p> <p>6 arrest report in what we call a hospital watch kit</p> <p>7 in the room.</p> <p>8 Q And do you always read the hospital watch kit?</p> <p>9 A Yes.</p> <p>10 Q Do you remember anything about Ms. Terry's hospital</p> <p>11 watch kit?</p> <p>12 A Specifically, I don't remember.</p> <p>13 Q What is typically in a hospital watch kit?</p> <p>14 A Um, the restraints. The -- an extra radio and a</p> <p>15 charger to keep the radio charged so you can</p> <p>16 communicate with dispatch and communications. Um,</p> <p>17 the logbook. And then, um, generally the person's</p> <p>18 ADR, their booking photo, um, criminal history is</p> <p>19 almost always there.</p> <p>20 Q Do you remember sometimes when criminal history was</p> <p>21 not in the kit?</p> <p>22 A Um, extremely rare, but I do remember one incident,</p> <p>23 yes, like that.</p> <p>24 Q What's the incident, do you remember, where there</p> <p>25 wasn't criminal history in a kit?</p>
Page 55	Page 57
<p>1 BY MR. RAUSCHER:</p> <p>2 Q Is that a "yes"?</p> <p>3 A Yes.</p> <p>4 Q Was it your practice to review any information</p> <p>5 about inmates before hospital watches began?</p> <p>6 A If I have the opportunity, I like to know what the</p> <p>7 inmate is in custody for.</p> <p>8 Q And is it -- did you typically have the opportunity</p> <p>9 to do that?</p> <p>10 A Um, it really depended on the situation. Ones</p> <p>11 where I was given advanced notice at work, yes.</p> <p>12 Q So, for example, like Rebecca Terry's where you</p> <p>13 were just told at roll call, does that mean you</p> <p>14 would not have reviewed her criminal history --</p> <p>15 MR. KNOTT: Object to form.</p> <p>16 BY MR. RAUSCHER:</p> <p>17 Q -- or anything like that before you went to watch?</p> <p>18 A I --</p> <p>19 MR. KNOTT: Form, speculation.</p> <p>20 THE WITNESS: I likely would have asked a</p> <p>21 supervisor to give me any information they had, but</p> <p>22 that would be about it.</p> <p>23 BY MR. RAUSCHER:</p> <p>24 Q Do you remember if you had that kind of</p> <p>25 conversation before you saw Rebecca Terry?</p>	<p>1 A I don't remember the specifics. I just remember it</p> <p>2 happening.</p> <p>3 Q Did something happen with that inmate, or do you</p> <p>4 just remember that there wasn't that information?</p> <p>5 A I just remember it wasn't there, because I do look</p> <p>6 for it.</p> <p>7 Q Okay. Did you ever learn anything about Rebecca</p> <p>8 Terry's birth? Let me rephrase that question.</p> <p>9 Did you ever learn anything about the birth</p> <p>10 of Rebecca Terry's baby?</p> <p>11 A I'm sure I was debriefed at the time. I don't</p> <p>12 remember specifics.</p> <p>13 Q Do you remember where Rebecca Terry gave birth?</p> <p>14 A I don't.</p> <p>15 Q Do you know if she gave birth in a hospital, or the</p> <p>16 jail, or somewhere else?</p> <p>17 A Um, I believe I was told afterwards that the baby</p> <p>18 was born at the jail.</p> <p>19 Q You mean after the hospital watch had concluded, or</p> <p>20 after --</p> <p>21 A After I was out on the watch.</p> <p>22 Q You mean while you were at the watch?</p> <p>23 A Yes.</p> <p>24 Q Who do you think told you that the baby was born at</p> <p>25 the jail?</p>

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<p>1 A One of the other deputies that I was relieving.</p> <p>2 Q Do you remember which deputy told you?</p> <p>3 A I don't offhand.</p> <p>4 Q Do you remember which of the other -- well, do you remember which other deputies it could have been?</p> <p>5 A It could have been any deputy that was relieving me.</p> <p>6 Q Any deputy identified in one of the logs?</p> <p>7 A Yeah.</p> <p>8 Q Do you remember what that person told you about the birth?</p> <p>9 A I don't.</p> <p>10 Q Did you ever talk to Ms. Terry about her giving birth in the jail?</p> <p>11 A Not that I recall.</p> <p>12 Q Do you recall any conversations with Ms. Terry?</p> <p>13 A I don't remember specific conversations with her. It was four and a half years ago.</p> <p>14 Q Other than your attorney, have you talked with anybody else about what happened to Ms. Terry?</p> <p>15 A No.</p> <p>16 Q Have you talked to anybody other than your attorney about your deposition today?</p> <p>17 A Um, I just mentioned to my court clerk that I had to go to a deposition, but no specifics. And my</p>	<p>1 Q Exhibit 2, the front page talks about a struggle for your gun with Inmate Bernard; is that right?</p> <p>2 A Um --</p> <p>3 Q I'm asking if it's right that it says that, not if you agree with that.</p> <p>4 A Right.</p> <p>5 MR. KNOTT: Where are you focusing on,</p> <p>6 Scott?</p> <p>7 MR. RAUSCHER: I'm sorry, I gave her my</p> <p>8 copy.</p> <p>9 MR. KNOTT: There's copies there.</p> <p>10 BY MR. RAUSCHER:</p> <p>11 Q If you look at the end of the second full paragraph, the last sentence is, "It is alleged that deputy allowed a hospitalized inmate under her watch to be entirely unrestrained, resulting in a struggle for the deputy's firearm." Do you see that?</p> <p>12 A Yes, I see that.</p> <p>13 Q Is that accurate, was there a struggle for your firearm?</p> <p>14 A Depends what you mean by "a struggle", I suppose.</p> <p>15 Q Do you agree with that characterization?</p> <p>16 MR. KNOTT: I'm going to object to the question as vague. I think she's saying she</p>
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<p>1 supervisors knew about it, because they were told through our IA area.</p> <p>2 Q But you didn't talk to the supervisors about the substance of?</p> <p>3 A Oh, no.</p> <p>4 Q Have you talked to anybody else about this case?</p> <p>5 A No.</p> <p>6 Q Let's mark these as Exhibit 2 and 3. We'll do 2 as Terry 21508 through 510. And 3 actually is not -- doesn't have a Bates number on it. It's the supplemental report dated 5/7/2016.</p> <p>7 (Exh. 2-3 marked for identification.)</p> <p>8 BY MR. RAUSCHER:</p> <p>9 Q Have you seen those two documents before?</p> <p>10 A Um, yes.</p> <p>11 Q When did you see them?</p> <p>12 A Um, well, I wrote the one labeled number three.</p> <p>13 Q The incident report?</p> <p>14 A Yes. So I saw that on many occasions when I wrote it and after. Um, the pieces of paper listed as item Exhibit Number 2, I saw when I appealed. I think it was -- might have been in the file when I first was disciplined, but I know it was in the file for sure when I was fighting the -- my suspension.</p>	<p>1 doesn't understand the question, but.</p> <p>2 THE WITNESS: Um, I don't know -- it's -- like I said, it's each individual's viewpoint. As far as my viewpoint, I don't know -- I don't feel it was a struggle. I mean, although she fell to the floor, so, you know. But I think that was her condition in part as well.</p> <p>3 BY MR. RAUSCHER:</p> <p>4 Q Is it fair to say you do not believe there was a struggle for your gun with Inmate Bernard?</p> <p>5 MR. KNOTT: Object to the form, asked and answered.</p> <p>6 MS. KUGLER: Join.</p> <p>7 MR. KNOTT: It's vague.</p> <p>8 THE WITNESS: I don't know if I can say there was a struggle for the firearm. Once I twisted away from her and she fell to the floor, I had to, in order to secure her, I needed to get her hands behind her back, and that -- she -- she kind of pulled away from me. So I guess that would be considered a struggle.</p> <p>9 BY MR. RAUSCHER:</p> <p>10 Q So there might have been a struggle when you were trying to handcuff her after she was on the ground?</p> <p>11 A Correct.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q But not a struggle for her to get your gun?</p> <p>2 MR. KNOTT: Object to form, asked and</p> <p>3 answered.</p> <p>4 THE WITNESS: She reached for it, I</p> <p>5 twisted, she fell.</p> <p>6 BY MR. RAUSCHER:</p> <p>7 Q But that wasn't a struggle?</p> <p>8 MR. KNOTT: Object to the form.</p> <p>9 THE WITNESS: I don't believe it was a</p> <p>10 struggle, no.</p> <p>11 BY MR. RAUSCHER:</p> <p>12 Q Is there anything else in Exhibit 2 or Exhibit 3</p> <p>13 that you don't agree with?</p> <p>14 MR. KNOTT: Object, vague. Overly broad.</p> <p>15 THE WITNESS: It depends on the</p> <p>16 questions. Because, like I said, I think</p> <p>17 everything is due to interpretation.</p> <p>18 BY MR. RAUSCHER:</p> <p>19 Q I just want your opinion. Are there things you</p> <p>20 don't agree with? We can focus on Exhibit 2.</p> <p>21 MR. KNOTT: Same, it's vague, overly</p> <p>22 broad.</p> <p>23 THE WITNESS: I -- without being more</p> <p>24 specific, I really can't answer that, because I</p> <p>25 don't want something to come up later that maybe</p>	<p style="text-align: right;">Page 64</p> <p>1 responded to your point that you were exercising</p> <p>2 your best judgment?</p> <p>3 A Not that I can recall.</p> <p>4 Q Just to make sure we have an accurate record. The</p> <p>5 inmate is identified in this Exhibit 2 as, I</p> <p>6 believe it was Shutia Bernard?</p> <p>7 A Yes, once I read that, I know I said it incorrectly</p> <p>8 prior.</p> <p>9 Q That's okay. We're talking about the same inmate</p> <p>10 that you were talking about at the beginning of</p> <p>11 this deposition?</p> <p>12 A We are.</p> <p>13 Q I don't think I have any other questions.</p> <p>14 E X A M I N A T I O N</p> <p>15 BY MR. KNOTT:</p> <p>16 Q I'm going to ask some clarification questions.</p> <p>17 First of all, Deputy, reviewing the Exhibit 2, does</p> <p>18 that refresh your recollection as to whether this</p> <p>19 incident happened in 2015 versus 2016?</p> <p>20 A Yes. I was trying to work backwards off of when I</p> <p>21 was suspended, and trying to figure out the date.</p> <p>22 Q Okay. So when you said earlier that it occurred in</p> <p>23 May of 2015, you know now that it occurred in May</p> <p>24 of 2016?</p> <p>25 A Yes, I do.</p>
<p style="text-align: right;">Page 63</p> <p>1 I'm not seeing.</p> <p>2 BY MR. RAUSCHER:</p> <p>3 Q During the internal investigation that's referred</p> <p>4 to in this Exhibit 2 --</p> <p>5 A Okay.</p> <p>6 Q -- did you ever tell anybody that your belief was</p> <p>7 that you had discretion to use your best judgment</p> <p>8 in applying or not applying policies?</p> <p>9 A Um, when I had the -- I believe when I had the</p> <p>10 interview with the Internal Affairs area, I said</p> <p>11 that I felt I used, under the circumstances, I was</p> <p>12 using my best judgment.</p> <p>13 Q And who did you say that to?</p> <p>14 A Ah, Lieutenant Hodel.</p> <p>15 Q That's the person who interviewed you?</p> <p>16 A Correct.</p> <p>17 Q And what did Lieutenant Hodel say when you told him</p> <p>18 that you had exercised your best judgment?</p> <p>19 A He was interviewing me, so he was just asking</p> <p>20 questions. He didn't necessarily respond.</p> <p>21 Q Do you remember one way or the other whether he</p> <p>22 responded?</p> <p>23 A I don't remember him responding to what I said.</p> <p>24 Q Do you remember if anybody has -- anybody from the</p> <p>25 Sheriff's Office or Internal Affairs has ever</p>	<p style="text-align: right;">Page 65</p> <p>1 Q And Counsel asked you whether you had ever told</p> <p>2 anyone that you were exercising your judgment. If</p> <p>3 you look at the last page of Exhibit 2, the first</p> <p>4 full paragraph, does that indicate that you told</p> <p>5 Lieutenant Hodel that you were exercising your</p> <p>6 judgment?</p> <p>7 A Um, I believe I said it at one point more formal</p> <p>8 than that, however, yeah, when I said that -- when</p> <p>9 I said "I guess" at the end, that was a nervous</p> <p>10 kind of thing that I typically might do, so yes.</p> <p>11 Q And, Deputy, that paragraph also indicates that the</p> <p>12 policy at issue is with regard to restraint of an</p> <p>13 inmate while out of bed, correct?</p> <p>14 A Can you ask that again? I'm sorry.</p> <p>15 Q That same sentence indicates that the policy</p> <p>16 provision that they were questioning you about</p> <p>17 pertains to the restraint of an inmate while out of</p> <p>18 bed on hospital watch?</p> <p>19 A Correct, the entire time she was in the bed, she</p> <p>20 was restrained.</p> <p>21 Q Can you tell me how she was restrained when you</p> <p>22 arrived to take over that shift?</p> <p>23 A Um, just by both ankles, because she had IVs in</p> <p>24 both arms.</p> <p>25 Q Looking at Exhibit 3 and the final sentences, or</p>

<p style="text-align: right;">Page 66</p> <p>1 the final lines in Exhibit 3, Page 1, it says, "I</p> <p>2 secured the inmate's legs to the bed with ankle</p> <p>3 restraints after which I removed her right wrist</p> <p>4 and then her left wrist from the handcuffs one at a</p> <p>5 time, and secured them to the bed frame using soft</p> <p>6 restraints already attached to the bed." Is</p> <p>7 that --</p> <p>8 A Yes.</p> <p>9 Q Tell me what you did there.</p> <p>10 A Um, well, I had to use my handcuffs that were on my</p> <p>11 belt when I restrained her when she was on the</p> <p>12 floor. So afterwards I assisted her in rising, um,</p> <p>13 and helped her back into the bed.</p> <p>14 Once I did that, um, the restraints that --</p> <p>15 where she was already restrained by her ankles, I</p> <p>16 reattached those. But because of the incident that</p> <p>17 just happened, there were some soft restraints that</p> <p>18 were at the side that were used for -- because of</p> <p>19 her seizures.</p> <p>20 Q Okay.</p> <p>21 A That I had used to restrain her hands, because,</p> <p>22 like I said, I had no radio contact in order to</p> <p>23 notify my supervisors. I had to step -- there was</p> <p>24 a phone on the wall that was outside the room like</p> <p>25 on the other side of the hall.</p>	<p style="text-align: right;">Page 68</p> <p>1 Um, but she did reach towards the left side</p> <p>2 of my belt, um, I felt her hands on me, they</p> <p>3 weren't on my firearm. Um, but I believe she did</p> <p>4 touch my belt, but she didn't have ahold of it.</p> <p>5 Q Okay. Deputy, let me refer you to Exhibit 3, about</p> <p>6 two sentences after what I just read. It says, "I</p> <p>7 felt her tugging on my belt with her hands as I</p> <p>8 pulled away in attempt to release her grip." Is</p> <p>9 that an accurate statement?</p> <p>10 A Mm-hmm.</p> <p>11 Q Yes?</p> <p>12 A Yes.</p> <p>13 Q And the belt is your firearm belt, true?</p> <p>14 A True. And other things it holds.</p> <p>15 Q Right.</p> <p>16 A Not just for firearms.</p> <p>17 Q And you would not characterize this as a struggle,</p> <p>18 but it is accurate to say that an inmate suddenly</p> <p>19 lunged at you, reached, and successfully grabbed</p> <p>20 your firearm belt, and yelled eight to twelve</p> <p>21 times, "Give me the gun," and you both fell to the</p> <p>22 floor. Is that an accurate recitement of what</p> <p>23 occurred?</p> <p>24 MR. RAUSCHER: Object to form.</p> <p>25 THE WITNESS: Um, I don't believe I fell</p>
<p style="text-align: right;">Page 67</p> <p>1 Q Referring to the soft restraints that were present</p> <p>2 due to seizures, are those restraints that were</p> <p>3 applied by the Sheriff's Office?</p> <p>4 A No, they were hospital staff's.</p> <p>5 Q Okay. And Counsel asked you whether there was a</p> <p>6 struggle. About halfway through your description</p> <p>7 on Page -- the large paragraph on Page 1 of</p> <p>8 Exhibit 3, it says, "The inmate suddenly lunged at</p> <p>9 me, grabbing at my holstered firearm on my left</p> <p>10 side, shouting, quote, "Give me the gun," closed</p> <p>11 quotes, over and over again, approximately eight to</p> <p>12 twelve times."</p> <p>13 A Mm-hmm.</p> <p>14 Q Did I read that accurately, with the exception of</p> <p>15 the inmate's name?</p> <p>16 A You did.</p> <p>17 Q And is that an accurate account of what occurred?</p> <p>18 A Yes.</p> <p>19 Q And did the inmate actually reach and have ahold of</p> <p>20 your belt?</p> <p>21 A Um, as I said, it all happened so quickly. It --</p> <p>22 it says she shouted eight to twelve -- excuse me,</p> <p>23 eight to twelve times, which she did. But that</p> <p>24 wasn't -- I wouldn't consider that a struggle, that</p> <p>25 was just her talking.</p>	<p style="text-align: right;">Page 69</p> <p>1 to the floor. I believe she fell to the floor and</p> <p>2 I kind of went to handcuff her right behind her.</p> <p>3 BY MR. KNOTT:</p> <p>4 Q And is it fair to say that the reason you don't</p> <p>5 believe there was a struggle, is because you felt</p> <p>6 that you had her under control at all times?</p> <p>7 A Um, it depends what you mean by that.</p> <p>8 Q Okay. Fair enough. Mean by "struggle", correct,</p> <p>9 that's what you're asking?</p> <p>10 A When -- when I think of struggle, I think of a</p> <p>11 physical altercation between two or more</p> <p>12 individuals.</p> <p>13 Um, she -- yes, she did reach towards and</p> <p>14 grab my belt. At no point in time did she get my</p> <p>15 fire -- like I said, I twisted and she went down.</p> <p>16 It all happened in about two seconds. That's where</p> <p>17 I guess I'm not --</p> <p>18 Q And Counsel asked you if you were scared. Deputy,</p> <p>19 did you have a heightened concern for your safety,</p> <p>20 an inmate's safety, and the hospital staff's safety</p> <p>21 when this event occurred?</p> <p>22 A Um, I -- at the moment it happened, yes, although</p> <p>23 she was -- because of her state, she was very easy</p> <p>24 to keep under control and get back in the bed and</p> <p>25 to restrain.</p>

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<p>1 Q And her state being impacted by seizures that she</p> <p>2 had had?</p> <p>3 A Yeah, I felt she was in a weakened state, which I</p> <p>4 believe she was, still believe she was.</p> <p>5 Q That's something you personally observed?</p> <p>6 A Yes.</p> <p>7 Q She was -- she did not give birth at the same</p> <p>8 hospital where this occurred, true?</p> <p>9 A That is -- according to my briefing in the logbook,</p> <p>10 correct.</p> <p>11 Q Do you know how long prior to this incident</p> <p>12 occurring she had given birth?</p> <p>13 A I was told she -- I was told she came right from</p> <p>14 the other hospital, and I want to say it was, um,</p> <p>15 two to three days.</p> <p>16 Q Is it your understanding that she was transferred</p> <p>17 due to ongoing seizures after her birth, after</p> <p>18 giving birth?</p> <p>19 A That's why I was told she was transferred to</p> <p>20 St. Luke's, yes.</p> <p>21 Q There was also -- at the moment that this incident</p> <p>22 occurred, there was also a nurse in physical</p> <p>23 contact with the inmate, true?</p> <p>24 A The -- yes, the inmate was on her -- she was</p> <p>25 sitting against the bed and the inmate -- or the</p>	<p>1 A Yes.</p> <p>2 Q And did the inmate continue to resist after you had</p> <p>3 ordered her to stop resisting?</p> <p>4 A Yes.</p> <p>5 Q And did she attempt to rise up off the floor after</p> <p>6 she had fallen to the floor?</p> <p>7 A No. Not until I assisted her.</p> <p>8 Q All right. In your report you document that the</p> <p>9 inmate had a scratch on the bridge of her nose as a</p> <p>10 result of this incident, correct?</p> <p>11 A I noticed after she was back in the bed, that there</p> <p>12 was a scratch there.</p> <p>13 Q And you're not sure whether it was a result of the</p> <p>14 incident or not; is that what you're saying?</p> <p>15 A I'm not saying that. I believe it probably was, I</p> <p>16 don't -- because I don't recall it being there</p> <p>17 prior. So I brought it to the attention of the</p> <p>18 medical staff to make sure she was all right.</p> <p>19 Q And, Deputy, I believe you testified earlier that</p> <p>20 when performing a hospital watch, you would</p> <p>21 routinely have access to and review an inmate's</p> <p>22 criminal record and their arrest record; is that</p> <p>23 fair?</p> <p>24 A It's fair.</p> <p>25 Q And you believe in Ms. Terry's circumstance that</p>
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<p>1 nurse was on her right side and I was on her left</p> <p>2 side.</p> <p>3 Q Did the nurse express concern for her safety after</p> <p>4 the event?</p> <p>5 MR. RAUSCHER: Object to form.</p> <p>6 THE WITNESS: Um, no. She -- in fact,</p> <p>7 the comment I remember I heard her saying was to</p> <p>8 the effect of, "That was kind of like watching an</p> <p>9 episode of cops."</p> <p>10 MR. KNOTT: Okay.</p> <p>11 THE WITNESS: But never expressed</p> <p>12 concern.</p> <p>13 BY MR. KNOTT:</p> <p>14 Q After the inmate fell to the floor, you ordered her</p> <p>15 to stop resisting, correct?</p> <p>16 A I did.</p> <p>17 Q And in your description in Exhibit 3, about</p> <p>18 three-quarters of the way through, it says, "As I</p> <p>19 ordered the inmate to stop resisting, she continued</p> <p>20 to struggle. And in her attempt to rise up off the</p> <p>21 floor, turned away from me towards her right side."</p> <p>22 A She had --</p> <p>23 Q Is that --</p> <p>24 A Oh, sorry.</p> <p>25 Q -- an accurate statement of what occurred?</p>	<p>1 you would have asked your supervisor for that</p> <p>2 information at the beginning of your watch or soon</p> <p>3 thereafter?</p> <p>4 A Um, well, at -- while I was still at the courts on</p> <p>5 that first day.</p> <p>6 Q And --</p> <p>7 A One that's being assigned to the hospital watch.</p> <p>8 Q That was your routine habit and custom to either</p> <p>9 read or ask for arrest records or information about</p> <p>10 their criminal history?</p> <p>11 A Yes.</p> <p>12 Q And why would you do that?</p> <p>13 A Um, like I said, the main objective of a hospital</p> <p>14 watch is to keep the inmate, the staff of the</p> <p>15 hospital, as well as the deputy safe, myself.</p> <p>16 Q And how would that information assist you in</p> <p>17 performing that task?</p> <p>18 A Um, basically to kind of give me an idea of the</p> <p>19 person, or what they have been capable of possibly</p> <p>20 doing.</p> <p>21 Q Is it because you're attempting to perform an</p> <p>22 individual determination of the security risk that</p> <p>23 that individual presents?</p> <p>24 A That's a big part of it, yes.</p> <p>25 Q And what type of criminal history, what type of</p>

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<p>1 incidents in a criminal history are of concern to</p> <p>2 you as a deputy performing a hospital watch, in</p> <p>3 terms of the security risk?</p> <p>4 A The main things are any type of violent criminal</p> <p>5 activity, where the person is known to get violent</p> <p>6 with other individuals. And then also bail jumping</p> <p>7 charges as well, because it means that they have</p> <p>8 not been reliable in coming to their court dates,</p> <p>9 or, you know, maybe purposely missed them or didn't</p> <p>10 care about the court system.</p> <p>11 Q Counsel asked you whether you performed an</p> <p>12 individual determination of the risk presented by</p> <p>13 the 80 to a hundred women that you observed at a</p> <p>14 hospital watch. Do you remember those questions?</p> <p>15 A Can you repeat the question?</p> <p>16 Q Counsel asked you whether you performed an</p> <p>17 individual determination when -- for the 80 to a</p> <p>18 hundred women that you observed on a hospital</p> <p>19 watch. Do you remember those questions generally?</p> <p>20 A Yes.</p> <p>21 Q And do you remember each and every of those 80 to</p> <p>22 100 women that you watched, and the incidents or</p> <p>23 events during those watches?</p> <p>24 A No.</p> <p>25 Q You testified that on occasion, there would be</p>	<p>1 something like remove a restraint so that a medical</p> <p>2 provider could have access to the inmate, fair?</p> <p>3 A Yes.</p> <p>4 Q Do you remember any specific instances of doing</p> <p>5 that?</p> <p>6 A Um, I do remember doing it. I couldn't tell you</p> <p>7 like the name of the inmate or when, or.</p> <p>8 Q And if an inmate were to ask you to remove a</p> <p>9 restraint, what would you do?</p> <p>10 A I'd -- first I'd be like, "Why do you want it</p> <p>11 removed?"</p> <p>12 Q And if they told you that it was too tight, what</p> <p>13 would you do?</p> <p>14 A I would -- like I mentioned previously, I would</p> <p>15 check, usually use a finger rule, being able to get</p> <p>16 our fingers in between the person's wrist and the</p> <p>17 cuff, um, to see if there was, you know, the person</p> <p>18 had mobility. And then if we felt it was too</p> <p>19 tight, we would loosen it up.</p> <p>20 A lot of times that happens when like me, I</p> <p>21 would come onto a hospital watch, and I'm replacing</p> <p>22 somebody else, that's the most time you get that</p> <p>23 kind of question. But if -- if they continue to</p> <p>24 complain, we can do things such as, like I said,</p> <p>25 put a towel in between the cuff and the wrist.</p>
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<p>1 something like they wanted to perform an X-ray.</p> <p>2 Tell me what you would do in that circumstance?</p> <p>3 MR. RAUSCHER: Object to form.</p> <p>4 THE WITNESS: Um, like if they needed an</p> <p>5 X-ray, a lot of times, in -- in my experience, they</p> <p>6 have asked for a cuff to be removed or a restraint</p> <p>7 to be removed, because that was the area they were</p> <p>8 needing to get an X-ray of. Then we would attempt</p> <p>9 to -- we would generally then remove that, but then</p> <p>10 we would try to, if we could, restrain them</p> <p>11 someplace else.</p> <p>12 BY MR. KNOTT:</p> <p>13 Q And when you were making that determination that</p> <p>14 you would remove the wrist restraint, were you</p> <p>15 making an individual determination of the potential</p> <p>16 risk of that inmate escaping or harming staff?</p> <p>17 A Again, you always have to take that into account.</p> <p>18 I mean, that's why, if you can, you want to</p> <p>19 restrain them in another area. If you're removing</p> <p>20 one area, why not put another one on, so.</p> <p>21 Q So one of the things you're balancing in that</p> <p>22 circumstance is the risk presented by that</p> <p>23 individual inmate, true?</p> <p>24 A True.</p> <p>25 Q And in your experience, you would, if asked, do</p>	<p>1 Q So that was an option that was available to you</p> <p>2 that wasn't directed by a written policy, fair?</p> <p>3 True?</p> <p>4 A Yes.</p> <p>5 Q Is it fair to say that if a health care provider</p> <p>6 approached you and asked you to remove a restraint,</p> <p>7 you would then make an individual determination on</p> <p>8 whether that's a safe practice?</p> <p>9 A Yes.</p> <p>10 Q Is it fair to say that if an inmate asked you to</p> <p>11 remove a restraint, you would then make an</p> <p>12 individual determination on whether that is a safe</p> <p>13 and prudent thing to do?</p> <p>14 A Can you say that again?</p> <p>15 Q If an inmate asked you to remove a restraint, would</p> <p>16 you then make an individual determination --</p> <p>17 A Yes.</p> <p>18 Q -- on whether it was a safe and prudent thing to</p> <p>19 do?</p> <p>20 A Yes.</p> <p>21 Q You indicated in response to Counsel's questions</p> <p>22 that one of your concerns would be if the inmate</p> <p>23 wanted to use a telephone. Why is that a concern?</p> <p>24 A Um, because when an inmate is out of the secure</p> <p>25 confines of the jail, it's considered -- at a</p>

<p style="text-align: right;">Page 78</p> <p>1 hospital, it's considered an unsecure environment. 2 If family knew they were there, they could try and 3 break that person out of jail, so to speak. Even 4 though they're at a hospital, they're still in 5 custody. 6 They could also bring any -- there's no -- 7 like a jail, they have to go through security, and 8 they're not allowed to bring any kind of weapons. 9 And in a hospital, there's no such practice that 10 they perform those. So they could technically 11 bring anything into the jail, including firearms, 12 knives. 13 Q As a deputy performing a hospital watch, would it 14 be a concern to you if a person who was arrested at 15 the same time as the person you're watching 16 presented at the hospital and asked to see the 17 inmate you're watching? 18 MR. RAUSCHER: Object to form. 19 THE WITNESS: I'm a little confused by 20 that question. 21 BY MR. KNOTT: 22 Q Yeah. As a deputy performing watches at the 23 hospital -- 24 A Okay. 25 Q -- would it be a concern to you if a person who was</p>	<p style="text-align: right;">Page 80</p> <p>1 A Yes, and her leg was still restrained. 2 Q And I think you indicated that in doing so, you 3 would be evaluating the risk and the safety risk to 4 the baby as well as to the patient; is that fair? 5 A Yes, that's fair. 6 Q And that would be on an individual, case-by-case 7 basis when a baby is brought into the room, fair? 8 A Fair. 9 Q Deputy, returning to the incident from May of 2016 10 at St. Luke's Hospital. That inmate had a 11 significant documented arrest history that included 12 resisting or obstructing an officer, battery, and 13 battery to law enforcement, true? 14 A True. 15 Q And it's true, isn't it, Deputy, that the 16 supervisors at the jail and -- and the Sheriff's 17 Department, felt that given her significant arrest 18 history and resisting and battery of law 19 enforcement, that you exercised poor judgment in 20 allowing her to move without restraint? 21 MR. RAUSCHER: Object to foundation. 22 THE WITNESS: I -- 23 BY MR. KNOTT: 24 Q That was something that was told to you, wasn't it? 25 A If I remember correctly, yes.</p>
<p style="text-align: right;">Page 79</p> <p>1 arrested at the same time as the inmate you're 2 watching, presented at the front desk and asked to 3 see the inmate you're watching? 4 A Yes. 5 Q Why would that be a concern? 6 A Well, again, it's an unsecure environment. If the 7 person is -- you know, if the person was with the 8 other person at the time of whatever incident 9 occurred, they're potentially involved in that as 10 well, which adds added danger. 11 In the past, if there's usually any kind of 12 knowledge of a family member or a friend finding 13 out of an inmate that's on a hospital watch while 14 they're there, we typically would move the inmate 15 to a different room to try to avoid any such 16 contact. 17 Q Counsel showed you Exhibit 1, which is your 18 hospital log. And it indicates on March 10th that 19 you removed Ms. Terry's restraint on her wrist when 20 the baby was brought into the room. Is that an 21 accurate account of your log at 1504 on March 10? 22 A Yes. 23 Q And you felt that it was within your discretion in 24 applying the policy to remove the wrist so that she 25 could hold the baby?</p>	<p style="text-align: right;">Page 81</p> <p>1 Q Looking at Exhibit 2, the second page, Deputy, it 2 says that you acknowledged, "There was nothing 3 preventing her from applying a belly chain 4 restraint system with one-hand restrained, along 5 with shackles, while Inmate Bernard was off the 6 bed." Is that something you discussed with the 7 supervisors? 8 A It's something they asked me. 9 Q And to kind of wrap this up, Deputy, you exercised 10 your judgment in that circumstance, correct? 11 A Correct. 12 Q And your supervisors didn't disagree that you had 13 the right to exercise discretion, they just 14 disagreed with your judgment in that exercise of 15 discretion; is that fair? 16 MR. RAUSCHER: Object to foundation. 17 THE WITNESS: Fair. 18 BY MR. KNOTT: 19 Q And that's because of what they viewed as a 20 significant criminal history for the inmate in 21 question, correct? 22 A Correct. 23 Q All right. Those are the questions I have. Thank 24 you. 25</p>

<p style="text-align: right;">Page 82</p> <p>1 EXAMINATION</p> <p>2 BY MR. RAUSCHER:</p> <p>3 Q Who told you you exercised poor judgment with</p> <p>4 respect to Inmate Bernard?</p> <p>5 A Um, I -- I don't know I was specifically told that</p> <p>6 I exercised poor judgment. I was asked the</p> <p>7 questions, um, as it was brought up in the report</p> <p>8 asking me if there was anything that kept me from</p> <p>9 applying the restraint.</p> <p>10 Q Those questions are about the policy, not your</p> <p>11 judgment, right?</p> <p>12 MR. KNOTT: Object, speculation. I don't</p> <p>13 know what you're asking.</p> <p>14 THE WITNESS: That particular one is,</p> <p>15 yeah, I guess it's about the policy.</p> <p>16 BY MR. RAUSCHER:</p> <p>17 Q Do you see a single question in this report about</p> <p>18 your judgment, other than when you said it at the</p> <p>19 end, that you were exercising your judgment?</p> <p>20 A No, that was the only spot.</p> <p>21 Q So no one really told you that you improperly</p> <p>22 exercised your judgment, right?</p> <p>23 A Um, I guess I don't understand.</p> <p>24 Q Nobody told you you didn't properly exercise your</p> <p>25 judgment with respect to Inmate Bernard, did they?</p>	<p style="text-align: right;">Page 84</p> <p>1 what you -- your question. Can you repeat his</p> <p>2 question to me?</p> <p>3 (Question read back by the court reporter.)</p> <p>4 THE WITNESS: I guess if, like I said,</p> <p>5 that doesn't mean they didn't exist. What I mean</p> <p>6 by that is if it was a significant, like if she</p> <p>7 tried something, yes. But I don't recall, say, for</p> <p>8 instance, if she tried to get ahold of an outside</p> <p>9 family member, I don't know if that happened or</p> <p>10 not, because it has happened, but I don't know it</p> <p>11 happened specifically with her.</p> <p>12 BY MR. RAUSCHER:</p> <p>13 Q And would you have written it down if she had tried</p> <p>14 to get in touch with an outside family member?</p> <p>15 A If she just asked, no. If she made an actual</p> <p>16 attempt attempt, yes.</p> <p>17 Q You mean if she just said to you, "Can I talk to</p> <p>18 someone in my family?", you wouldn't have --</p> <p>19 A "Can I use the phone? Why not?" I'd just say no,</p> <p>20 and security reasons.</p> <p>21 Q Right, can I use the phone is not a security risk,</p> <p>22 right?</p> <p>23 A Correct.</p> <p>24 Q Okay. You would apply restraints to -- before the</p> <p>25 restraint policy was changed with respect to</p>
<p style="text-align: right;">Page 83</p> <p>1 A Um, to be honest, I don't recall exactly the exact</p> <p>2 words that were said.</p> <p>3 Q You were told you violated the policy with</p> <p>4 restraints?</p> <p>5 A Yes.</p> <p>6 Q When you took the wrist restraint off Rebecca Terry</p> <p>7 to let her hold her baby, did she try to escape?</p> <p>8 A No.</p> <p>9 Q Did she ever try to escape?</p> <p>10 A No.</p> <p>11 Q Did you ever make any determination as to whether</p> <p>12 Rebecca Terry presented a danger to herself, to</p> <p>13 other inmates, or to you?</p> <p>14 MR. KNOTT: I object, it's overly broad.</p> <p>15 THE WITNESS: I'm sorry, are you done</p> <p>16 with the --</p> <p>17 MR. KNOTT: Yeah, go ahead.</p> <p>18 THE WITNESS: Um, don't recall, but that</p> <p>19 doesn't mean there weren't any.</p> <p>20 BY MR. RAUSCHER:</p> <p>21 Q If you thought there was a danger, you would have</p> <p>22 written it in your logbook, right?</p> <p>23 A Yes.</p> <p>24 Q And you didn't write it in your logbook?</p> <p>25 A No, but it depends what you mean by "danger" from</p>	<p style="text-align: right;">Page 85</p> <p>1 pregnant women, you applied restraints to pregnant</p> <p>2 women, to women in labor, to women recovering from</p> <p>3 labor, without regard for their criminal history,</p> <p>4 correct?</p> <p>5 MR. KNOTT: Objection to the form of the</p> <p>6 question, it's vague, it's overly broad, it's</p> <p>7 multiple.</p> <p>8 THE WITNESS: It's a general practice,</p> <p>9 yes.</p> <p>10 BY MR. RAUSCHER:</p> <p>11 Q You aren't going through one by one and saying,</p> <p>12 well, this person has a particularly serious</p> <p>13 criminal history, this person doesn't, and then</p> <p>14 making decisions based on that?</p> <p>15 A No.</p> <p>16 Q You were not doing that, right?</p> <p>17 A I was not doing that.</p> <p>18 Q You were asked a question by Mr. Knott, looking --</p> <p>19 I think it was at Exhibit 3, where there was a</p> <p>20 reference to a policy requiring the inmates to be</p> <p>21 restrained outside of their hospital beds. Do you</p> <p>22 remember that?</p> <p>23 A Whenever they're outside the jail, they're supposed</p> <p>24 to have two-point restraints.</p> <p>25 Q Right, they're supposed to be restrained in their</p>

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1 bed and out of bed?
 2 A Correct.
 3 Q That's not saying that policy only applied to
 4 inmates out of the beds?
 5 A That's true.
 6 Q That's all I have.
 7 MR. KNOTT: That's it.
 8 MR. RAUSCHER: Thank you.
 9 THE WITNESS: No problem.
 10 (Deposition concluded at 12:28 p.m.)
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1 STATE OF WISCONSIN)
) SS:
 2 COUNTY OF MILWAUKEE)
 3 I, Wendy L. Hanneman, Registered
 4 Professional Reporter and Notary Public in and for the
 5 State of Wisconsin, do hereby certify that the
 6 deposition of ELIZABETH FREUCK was reported by me and
 7 reduced to writing under my personal direction.
 8 I further certify that said deposition was
 9 taken at LEIB, KNOTT & GAYNOR, LLC, 219 North Milwaukee
 10 Street, Suite 710, Milwaukee, Wisconsin, on the 21st day
 11 of August, 2018, commencing at 10:34 a.m. and concluding
 12 at 12:28 p.m.
 13 I further certify that I am not a relative
 14 or employee or attorney or counsel of any of the
 15 parties, or a relative or employee of such attorney or
 16 counsel, or financially interested directly or
 17 indirectly in this action.
 18 In witness whereof, I have hereunto set my
 19 hand and affixed my seal of office at Milwaukee,
 20 Wisconsin, this 27th day of August, 2018.
 21
 22 Wendy L. Hanneman - Notary Public
 In and for the State of Wisconsin
 23
 My Commission Expires: October 9, 2021.
 24
 25

<hr/> Exhibits <hr/> exh 1 3:8 36:12,14 37:22 51:14 79:17 exh 2 3:9 59:8,21 60:1 62:12,20 63:4 64:5,17 65:3 81:1 exh 3 3:10 62:12 65:25 66:1 67:8 68:5 71:17 85:19 <hr/> 0 <hr/> 0600 52:8,24 53:20 0730 51:19 09 6:10 <hr/> 1 <hr/> 1 36:12,14 37:22 51:14 52:10 66:1 67:7 79:17 1/2 4:14 10 79:21 10-49 42:13,19 100 74:22 10th 39:10 50:17 51:19 79:18 11th 52:7 1252 53:25 12:28 86:10 12th 52:23 13 5:23 1300 53:13 1308 40:24 51:23 1312 52:14 13th 53:20 1400 52:8,24 53:20 1504 42:23 79:21 1530 51:19 16 5:10	1605 52:13 1654 53:14 18 53:6 180 36:17 38:18 51:17 181 51:21 182 51:24 183 52:2 184 52:6 186 52:19 187 52:20 188 52:21 189 53:2 19 53:17 190 53:7 191 53:18 192 36:17 53:23 <hr/> 2 <hr/> 2 59:8,21 60:1 62:12, 20 63:4 64:5,17 65:3 81:1 2-3 59:12 20 53:22 2009 6:13 2013 6:10,18 9:25 2014 49:7 50:17 51:19 52:7,24 53:20 2015 20:16 33:19 64:19,23 2016 64:19,24 80:9 2017 19:2 21508 59:9 22 4:14,22 27 38:24 <hr/> 3 <hr/> 3 59:8,9 62:12 65:25	66:1 67:8 68:5 71:17 85:19 30 4:15,19 42:18 303 53:4 <hr/> 4 <hr/> 4:30 49:10 <hr/> 5 <hr/> 5/7/2016 59:11 510 59:9 <hr/> 6 <hr/> 6127 38:23 64 39:13 65 51:16 68 51:21 69 51:23 <hr/> 7 <hr/> 70 51:25 71 52:5 72 52:9 73 52:18 74 52:19 75 52:21 76 27:4,6 35:4,12 53:1 793 42:14,21 7:30 49:9,19 <hr/> 8 <hr/> 80 24:13,15 26:13, 18,21 27:1,3 74:13, 17,21 83 9:5,6 89 9:8,9	<hr/> 9 <hr/> 90 9:8 96 6:13 27:3 <hr/> A <hr/> ability 6:5 21:13 22:20 academy 5:22 7:8, 11,12,15,24 8:5 31:23 33:11 38:13 accept 12:4,25 accepted 13:10,11, 14,20 access 72:21 76:2 account 67:17 75:17 79:21 accurate 54:5,7,17, 20 60:20 64:4 67:17 68:9,18,22 71:25 79:21 accurately 67:14 acknowledged 81:2 activity 74:5 actual 84:15 added 79:10 addition 4:19 additional 8:2 adds 79:10 admitted 11:24 13:23 14:7,14 Adolescent 8:12,13 ADR 56:18 advance 50:11 advanced 55:11 Affairs 30:14 63:10, 25 agency 13:19 agency's 13:16,23	agree 60:5,23 62:13, 20 ahead 12:21 20:12 49:22 50:6 83:17 ahold 28:25 29:1 67:19 68:4 84:8 airport 5:24,25 6:2, 3,11,17 alert 21:4 alleged 60:14 Allis's 12:24 13:1 allowed 25:23 33:19 34:6 60:15 78:8 allowing 80:20 altercation 69:11 amount 30:22 34:20,24 Andrykowski 53:3 ankle 15:11,25 16:5, 12 17:5,8 18:11,17 39:16,19 42:1 66:2 ankles 65:23 66:15 appeal 30:18 appealed 59:21 appeared 21:11 applied 18:19,20 19:14,17 35:7 67:3 85:1 86:3 apply 35:18 84:24 applying 63:8 79:24 81:3 82:9 approached 77:6 approve 13:11 approximate 26:23 approximately 42:18 49:10 67:11 area 5:15 6:2 59:2 63:10 75:7,19,20 argumentative 34:12 arisen 19:20
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